



# SELECT BOARD CALENDAR 01/31/2023 | HYBRID MEETING

SELECT BOARD HEARING ROOM  
6<sup>TH</sup> FLOOR, BBROOKLINE TOWN HALL

- Heather A. Hamilton – Chair
- John VanScoyoc – Vice Chair
- Bernard W. Greene
- Miriam Aschkenasy
- Michael Sandman
- Charles Carey – Town Administrator

OR

Please click this URL to Register & Find the Information to Join as an Attendee via your Confirmation Email:

[https://brooklinema.zoomgov.com/webinar/register/WN\\_cWkwFBNOQleSWeTKk9kyjQ](https://brooklinema.zoomgov.com/webinar/register/WN_cWkwFBNOQleSWeTKk9kyjQ)

To Join by Phone: +1 646 828 7666

Webinar ID: 160 756 6712

To Watch and Comment:  
BrooklineInteractive.org/live

1. **ANNOUNCEMENTS/UPDATES**  
6:00 PM Select Board to announce recent and/or upcoming Events of Community Interest.
2. **PUBLIC COMMENT**  
Public Comment period for residents who requested to speak to the Board regarding Town issues not on the Calendar.  
*Up to fifteen minutes for public comment shall be scheduled each meeting. Persons wishing to speak may sign up in advance beginning on the Friday preceding the meeting or may sign up in person at the meeting. Speakers will be taken up in the order they sign up. Advance registration is available by calling the Select Board's office at 617-730-2202 or by e-mail at kmacgillivray@brooklinema.gov. The full Policy on Public Comment is available at <http://www.brooklinema.gov/376/Meeting-Policies>*
3. **MISCELLANEOUS**  
Approval of miscellaneous items, licenses, vouchers, and contracts.
  - 3.A. Question of approving the meeting minutes from January 24, 2023.
  - 3.B. Question of accepting three checks from Energy Solutions, rebate checks from National Grid to be deposited in the electricity fund account, in the following amounts:  
  
\$80,200.00  
\$51,875.00  
\$12,500.00
  - 3.C. Question of approving the Budget Transfer from Public Buildings in the amount of \$150,720 as follows:

**From account 25002510 510101 Public Buildings Personnel  
account \$50,160  
To account 25002540 522400 Town Repair and Maintenance  
\$50,160**

**From: account 25003430 510101 School Personnel \$100,560  
To: account 25003430 522400 School Repair and Maintenance  
\$100,560**

- 3.D. Question of approving the donation from the SYDA Foundation  
donation in the amount of \$3,000.**

- 4. CALENDAR  
Review and potential vote on Calendar Items**

- 5. CONSERVATION RESTRICTION**

**Question of accepting the Conservation Restriction as presented  
for 100 Cottage Street.**

- 6. REFUSE FEE INCREASE**

**Discussion and possible vote on the recommendation as presented  
by the Commissioner of Department of Public Works, Erin  
Gallentine regarding the Pay As You Throw Refuse and  
Recycling Program Fees effective July 1, 2023.**

<b>35 Gallon Waste Cart Fee</b>	<b>\$250/Year</b>
<b>65 Gallon Waste Cart Fee</b>	<b>\$336/Year</b>
<b>95 Gallon Waste Cart Fee</b>	<b>\$425/Year</b>
<b>Cart Waiver –Bags Only Collection Fee</b>	<b>\$208/Year</b>
<b>Overflow Bag Fee</b>	<b>\$4.00/Bag</b>
<b>Cart Swap Fee</b>	<b>\$40/Swap</b>
<b>Special Bulky Item Pick-up</b>	<b>\$10/Item</b>
<b>White Goods/Electronics</b>	<b>\$20/Item</b>
<b>Mattresses</b>	<b>\$55/Item</b>

- 7. BEACON STREET BRIDLE PATH MATCHING FUNDS**

**Discussion and possible vote on matching funds to support the  
Beacon Street Bridle Path.**

8. **MBTA COMMUNITIES PRESENTATION**

**Presentation from Planning Director Kara Brewton and Senior Planner Maria Morelli for the purpose of a reserve fund transfer or an ARPA allocation in the amount of \$277,000 to provide emergency funding for a form-based zoning consultant for the purpose of (a) supporting Harvard Street as an MBTA Communities mixed-use district, (b) providing building/architectural standards and design review safeguards for as-of-right projects, (c) maintaining in the base zoning the four-story scale currently allowed under Zoning, and (d) achieving compliance with the MBTA Communities statute by the December 2023 deadline.**

9. **SUSTAINABILITY UPDATE**

**Sustainability update from the Director of Sustainability, Tom Barrasso.**

10. **MUNICIPAL SUSTAINABILITY ARPA PACKAGE PRESENTATION**

**Presentation from Town Administrator Chas Carey on the Town's green ARPA package submission.**

11. **NOISE BYLAW WAIVER REQUEST CONTINUED**

**Question of approving a Noise Bylaw Waiver request submitted by Chestnut Hill Realty for concrete pours related to the Puddingstone Project at Hancock Village.**

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services, or activities. The Town of Brookline does not discriminate on the basis of disability in its hiring or employment practices. This notice is provided as required by Title II of the Americans with Disabilities Act (ADA) and by Section 504 of the Rehabilitation Act of 1973. Questions, complaints, or requests for additional information may be sent to Sarah Kaplan, Community Relations Specialist and ADA / Section 504 Coordinator. Persons with disabilities who need either auxiliary aids and services for effective communication, written materials in alternative formats, or reasonable modifications in policies and procedures in order to access programs and activities of the Town of Brookline are invited to make their needs and preferences known to the ADA Coordinator. This notice is available in alternative formats from the ADA Coordinator.



MINUTES  
SELECT BOARD

01/24/2023 | 5:30 PM  
REMOTE MEETING VIA ZOOM

Present: Select Board Member, Heather Hamilton, Select Board Member, Bernard W. Greene, Select Board Member, John VanScoyoc, Select Board Member, Miriam Aschkenasy, Select Board member, Michael Sandman

ANNOUNCEMENTS/UPDATES

The ARPA portal will close on February 7, 2023. That is the last day for application submittals  
The passing of Reverend George Chapman was acknowledged. The board noted his enormous contribution to the community and St. Paul's Episcopal Church congregation  
Happy Lunar New Year. On a sad note the board acknowledged the mass shooting during a Lunar New Year celebration in California. There has been an alarming number of mass shootings this month.

PUBLIC COMMENT

1. Fran Pearler spoke on a recent petition urging the Select Board to fully fund addressing the rodent crisis. The problem is bigger than the town is able to tackle. The rat population has exploded in town and reducing the quality of lives for residents and businesses in Brookline. This is a public health issue. Trash controls needs to be managed better.
2. Lisa Coady spoke on her experience getting signatures for the petition and residents relaying they are scared and rats are found in their homes, parks, sandboxes, toilets, vehicles. Someone was bitten delivering a package. Residents have been paying costly exterminating services. An investment of time, personnel and money are required.
3. Susan Park TMM#17 spoke briefly on a mitigation study on cannabis and youth. The proposed equity policy is very confusing and why is the policy being talked about tonight when article 15 passed, putting on a ballot question to determine a cap on retail marijuana licenses. She feels the equity policy can wait until after the May election. She also noted that the two committees have not completed their work.
4. Lynda Roseman TMM#14 spoke on the changes in the police department beginning in 2020 when community policing was a model considered with defunding the police. The Brookline Police eliminated the walk and talk program and the SRO program when a small, but vocal group took over the narrative. Moral is down and officers are leaving. She urged the board to take necessary steps towards healing their relationship with the police department. She noted the last Chief search ended up in a disaster
5. Marilyn Rosenbaum spoke on her experience speaking with residents on the rat problem and many feel they are not being heard and left to deal with the problem on their own.



### 3.A.

In Select Board

01/24/2023

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6. Arthur Conquest spoke on the lack of diversity on the Diversity, Inclusion and Community Relations Commission. When he attended a recent meeting, he noted every protected class except black and Asian members were represented.
7. Richard Strock spoke on losing property value of a parking space that is unusable due to the rat problem. He feels the pain with everyone else. He also spoke on the marijuana equity policy. He recommended letting the two committees complete their work and the voters decide on the number of retail licenses.
8. Uri Mariash, TMM#17 urged the board to let the voters decide on marijuana issues before the policy is approved.
9. Kate Silbaugh, TMM#1 spoke on the history of marijuana related warrant articles. Two committees were formed to review issues and their work has not been completed. She feels there cannot be a vote on the equity policy until the voters are heard. The board cannot approve a 5<sup>th</sup> license before the voters make their decision.
10. Jon Lau thanked the board for acknowledging that the commonwealth calculates 20% of package store licenses to determine the number of cannabis licenses. He looks forward to future discussions.
11. Donelle O'Neal added that a social equity policy is required by the state.
12. John Harris, TMM#8 spoke in support of funding rodent control programs.
13. Carolyn Thall spoke on Chestnut Hill Realty and the Hancock Village project. The relocation of the trash area is in violation of their comprehensive permit. Residents need to walk a half mile to dispose of their trash. The company noted that the relocation was done with the blessing from town staff, who cannot keep up with compliance review. This requires ZBA approval.
14. Aone Wang spoke on article 15 that passed to place a ballot question on marijuana establishment limits. He feels the proposed policy is in conflict of that.
15. Michael Irwig spoke on living in Washington DC with a rodent problem and noted that increasing fines seemed to help change behavior patterns. He suggested a website that tracks the violations.
16. Wadner Oge, TMM#15 spoke on article 15 passed by Town Meeting that is in conflict with the proposed equity policy. What if the policy is approved and the voters vote to limit the amount of establishments.
17. Paul Warren, TMM#12 added there are two things here, the issue of the equity policy and the possibility of an additional license being issued, which is not on the agenda tonight. He recommended waiting until the appointed committees weigh in.

Town Administrator Carey spoke on the rodent petition. He reviewed their efforts and plans to increase education, outreach and nuisance laws. He noted that the budget is tight and the funds will need to come from another bucket. Difficult decisions will need to be made. Community cooperation is important.

#### MISCELLANEOUS

Question of approving the minutes from January 17, 2023

On motion it was,

Voted to approve the meeting minutes from January 17, 2023 as amended.

Aye: Heather Hamilton, Bernard Greene, John VanScoyoc, Miriam Aschkenasy, Michael Sandman

### 3.A.

In Select Board

01/24/2023

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#### AUTHORIZATION TO HIRE

Question of approving the Authorization to Hire request from the Recreation Department for an Assistant Rec. Leader/Aquatic Supervisor (GN-7)

On motion it was,

Voted to approve the Authorization to Hire request from the Recreation Department for an Assistant Rec. Leader/Aquatic Supervisor (GN-7)

Aye: Heather Hamilton, Bernard Greene, John VanScoyoc, Miriam Aschkenasy, Michael Sandman

#### CHANGE ORDERS

Question of approving the following Change Orders from Gilbane Building Company related to the Driscoll School Project:

Change Order #21, increase \$18,366.00, owner requested changes to bathroom wall tile to facilitate maintenance and provide added colored tile.

Change Order #22, increase \$30,223.00, various additions and deletions to scope of work as described in the summary pages and the architect's explanation of the changes in question.

On motion it was,

Voted approve the following Change Orders from Gilbane Building Company related to the Driscoll School Project:

Change Order #21, increase \$18,366.00, owner requested changes to bathroom wall tile to facilitate maintenance and provide added colored tile.

Change Order #22, increase \$30,223.00, various additions and deletions to scope of work as described in the summary pages and the architect's explanation of the changes in question.

Aye: Heather Hamilton, Bernard Greene, John VanScoyoc, Miriam Aschkenasy, Michael Sandman

#### CHANGE ORDERS

Question of approving Change Order #7 with Lambrian Construction in the amount of \$129,936.00 for added scope to the project as described in the referenced documents.

On motion it was,

Voted to approve Change Order #7 with Lambrian Construction in the amount of \$129,936.00 for added scope to the project as described in the referenced documents.

Aye: Heather Hamilton, Bernard Greene, John VanScoyoc, Miriam Aschkenasy, Michael Sandman

#### CHANGE ORDER

Question of approving Change Order #3 with Thompson Waterproofing in the amount of \$19,465.79, for added scope to Fire Station #4 as part of the Building Envelope Repairs to Five Buildings project.

On motion it was,

### 3.A.

In Select Board

01/24/2023

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Voted to approve Change Order #3 with Thompson Waterproofing in the amount of \$19,465.79, for added scope to Fire Station #4 as part of the Building Envelope Repairs to Five Buildings project.

Aye: Heather Hamilton, Bernard Greene, John VanScoyoc, Miriam Aschkenasy, Michael Sandman

#### CONTRACT

Question of Awarding and Executing a Contract with Mountain View Landscapes and Lawncare, Inc in the amount of \$1,389,300 for the Renovation of Margaret E. Robinson Playground.

On motion it was,

Voted to award and execute a Contract with Mountain View Landscapes and Lawncare, Inc in the amount of \$1,389,300 for the Renovation of Margaret E. Robinson Playground.

Aye: Heather Hamilton, Bernard Greene, John VanScoyoc, Miriam Aschkenasy, Michael Sandman

#### MARIJUANA SOCIAL EQUITY POLICY

Discussion and possible vote on the marijuana social equity policy.

Town Administrator Carey reviewed in December there was an approval of an additional package store license. The marijuana licenses are determined by the amount of package store licenses in Brookline. The Select Board is seeking a clear, defined social equity policy to provide guidance and put equity protections in place. A marijuana license seeker came forward after that license was approved. To date those licenses were on a first come first serve basis. There is no action on issuing a marijuana license tonight. There is an upcoming ballot question seeking to limit the amount of retail marijuana licenses; however, it is important for the town to have an equity policy in place regardless of the ballot question outcome.

First Associate Town Counsel John Moreschi added that there may be other cannabis category licenses coming up and a policy is required that ties in with the Cannabis Control Commissions economic and social equity status requirements.

The board acknowledged the article 15 vote by Town Meeting and the formed committee's delegated work. It was added that the Moderators' Committee on Recreational Marijuana is not reviewing the number of licenses that should be issued.

Board member Greene added that so many policy issues have been presented to them but there is no good reference to the purpose of the original marijuana statute to address black and brown communities disproportionately impacted by the war on drugs. The proposed policy does not ensure that future owners be of black and brown communities, or have an ownership interest in the existing cannabis establishments; this needs to be incorporated into the equity policy.

The board agreed to ask staff to further review the proposed policy to include the intent to grant licenses to qualified social equity applicants, and seek input from the two cannabis committees.

There was no vote on this agenda item.

### 3.A.

In Select Board

01/24/2023

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#### BOARDS AND COMMISSIONS - APPOINTMENTS

The following candidates for appointment/reappointment to Boards and Commissions:

Housing Advisory Board

On motion it was,

Voted to appoint Board Member Bernard green to the Housing Advisory Board.

Aye: Heather Hamilton, Bernard Greene, John VanScoyoc, Miriam Aschkenasy, Michael Sandman

There being no further business, the Chair ended the meeting at 7:15 pm.

ATTEST

3.B.

29214



## An ENERGY SOLUTIONS Implemented Program

449 15<sup>th</sup> Street, Suite 400  
Oakland CA 94612

BRIDGE BANK  
55 ALMADEN BLVD.  
SAN JOSE, CA 95113  
90-4326/1211

12/22/2022

Town of Brookline  
PAY TO THE  
ORDER OF

\$ 12,500.00

Twelve Thousand Five Hundred and 00/100\*\*\*\*\*

DOLLARS

Town of Brookline  
Attention: Mark Sacco  
333 Washington Street Rm 311  
Brookline, MA 02445

AUTHORIZED SIGNATURE

⑈029214⑈ ⑆121143260⑆

8824076352⑈

## AN ENERGY SOLUTIONS IMPLEMENTED PROGRAM

29214

REFERENCE NO.	DESCRIPTION	DATE	INVOICE AMOUNT	DISCOUNT TAKEN	AMOUNT PAID
320	Rebates for 22-1983 (National Grid - MADC&I HP)	12/19/2022	\$5,000.00	\$0.00	\$5,000.00
321	Rebates for 22-1983 (National Grid - MADC&I HP)	12/19/2022	\$7,500.00	\$0.00	\$7,500.00


**An ENERGY SOLUTIONS Implemented Program**

 449 15<sup>th</sup> Street, Suite 400  
 Oakland CA 94612

**BRIDGE BANK**  
 55 ALMADEN BLVD.  
 SAN JOSE, CA 95113  
 90-4326/1211

29445

12/29/2022

 PAY TO THE  
 ORDER OF

Town of Brookline

\$ 51,875.00

Fifty One Thousand Eight Hundred Seventy Five and 00/100\*\*\*\*\*

DOLLARS (

 Town of Brookline  
 Attention: Mark Sacco  
 333 Washington Street Rm 311  
 Brookline, MA 02445

AUTHORIZED SIGNATURE

⑈029445⑈ ⑆121143260⑆ 8824076352⑈

**AN ENERGY SOLUTIONS IMPLEMENTED PROGRAM**

29445

REFERENCE NO.	DESCRIPTION	DATE	INVOICE AMOUNT	DISCOUNT TAKEN	AMOUNT PAID
352	Rebates for 22-1983 (National Grid - MADC&I HP)	12/27/2022	\$15,000.00	FS 7 \$0.00	\$15,000.00
353	Rebates for 22-1983 (National Grid - MADC&I HP)	12/27/2022	\$2,500.00	FS 7 \$0.00	\$2,500.00
354	Rebates for 22-1983 (National Grid - MADC&I HP)	12/27/2022	\$6,875.00	FS 7 \$0.00	\$6,875.00
355	Rebates for 22-1983 (National Grid - MADC&I HP)	12/27/2022	\$27,500.00	025 Lincoln \$0.00	\$27,500.00

3.B.

30069



## An ENERGY SOLUTIONS Implemented Program

449 15<sup>th</sup> Street, Suite 400  
Oakland CA 94612

BRIDGE BANK  
55 ALMADEN BLVD.  
SAN JOSE, CA 95113  
90-4326/1211

01/19/2023


Town of Brookline  
PAY TO THE  
ORDER OF

\$ 80,200.00

Eighty Thousand Two Hundred and 00/100\*\*\*\*\*

DOLLARS (

Town of Brookline  
Attention: Mark Sacco  
333 Washington Street Rm 311  
Brookline, MA 02445

  
AUTHORIZED SIGNATURE

⑈030069⑈ ⑆121143260⑆ 8824076352⑈

## AN ENERGY SOLUTIONS IMPLEMENTED PROGRAM

30069

REFERENCE NO.	DESCRIPTION	DATE	INVOICE AMOUNT	DISCOUNT TAKEN	AMOUNT PAID
404	Rebates for 22-1983 (National Grid - MADC&I HP)	01/16/2023	\$75,625.00	\$0.00	\$75,625.00
405	Rebates for 22-1983 (National Grid - MADC&I HP)	01/16/2023	\$4,575.00	\$0.00	\$4,575.00



**TOWN of BROOKLINE**  
*Massachusetts*

**BUILDING DEPARTMENT**

Daniel F. Bennett  
Building Commissioner

January 17, 2023

TO: Select Board

FROM: Charles A. Simmons  
Director of Public Buildings

SUBJECT: Budget Appropriation Transfer

WJ

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I would like to request a Budget Transfer for a total amount of \$150,720. This request consists of:

- 1) \$50,160 from account 25002510 510101 Public Buildings Personnel account to account 25002540 522400 Town Repair and Maintenance
- 2) \$100,560 from account 25003430 510101 School Personnel to account 25003430 522400 School Repair and Maintenance

The transferred monies would be used to hire additional services from vendors due to three open HVAC positions and one open electrician position in the Building Department.

Thank you for your consideration.

Attachment



## TOWN OF BROOKLINE

REQUEST FOR APPROPRIATION **TRANSFER**DATE: 1/17/2023

To the Board of Selectmen:

Authority is hereby requested for permission to make the following transfer(s) within the  
 appropriation for the Building Department  
*Department Name*

	<u>ORG #</u>	<u>ORG NAME</u>	<u>OBJECT #</u>	<u>OBJ NAME</u>	<u>AMOUNT</u>
FROM:	25002510	Public Buildings	510101	Perm. Full-Time	\$50,160
TO:	25002540	Town Hall Buildings	522400	Repair & Maint.	\$50,160

FROM:	25003430	School Buildings	510101	Perm. Full-Time	\$100,560
TO:	25003430	School Buildings	522400	Repair & Maint.	\$100,560

FROM:					
TO:					

FROM:					
TO:					

FROM:					
TO:					

  
 DEPARTMENT HEAD

**NOTE: IN ADDITION TO SELECTMEN APPROVAL, THE FOLLOWING TRANSFERS REQUIRE ADVISORY COMMITTEE APPROVAL:**

(1) From Capital (5A); (2) To Personnel (51); (3) Building Dept Transfers of more than \$10,000 to or from Repairs to Public Buildings (522400); (4) From the Parks & Open Space Division to any other division of DPW; and (5) From the Snow & Ice budget to any other division of DPW.


BOARD OF SELECTMEN

## TOWN OF BROOKLINE

REQUEST FOR APPROPRIATION **TRANSFER**DATE: 1/17/2023

To the Board of Selectmen:

Authority is hereby requested for permission to make the following transfer(s) within the  
 appropriation for the \_\_\_\_\_  
 Building Department

Department Name

	<u>ORG #</u>	<u>ORG NAME</u>	<u>OBJECT #</u>	<u>OBJ NAME</u>	<u>AMOUNT</u>
FROM:	25002510	Public Buildings	510101	Perm. Full-Time	\$50,160
TO:	25002540	Town Hall Buildings	522400	Repair & Maint.	\$50,160

FROM:	25003430	School Buildings	510101	Perm. Full-Time	\$100,560
TO:	25003430	School Buildings	522400	Repair & Maint.	\$100,560

FROM:					
TO:					

FROM:					
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FROM:					
TO:					

DEPARTMENT HEAD

**NOTE: IN ADDITION TO SELECTMEN APPROVAL, THE FOLLOWING TRANSFERS REQUIRE ADVISORY COMMITTEE APPROVAL:**

(1) From Capital (5A); (2) To Personnel (51); (3) Building Dept Transfers of more than \$10,000 to or from Repairs to Public Buildings (522400); (4) From the Parks & Open Space Division to any other division of DPW; and (5) From the Snow & Ice budget to any other division of DPW.


BOARD OF SELECTMEN

SYDA FOUNDATION

23 JAN 25 AM 11:49

December 23, 2022

Mr. Charles Carey  
Administrator  
Town of Brookline  
333 Washington Street, 6th floor  
Brookline, Massachusetts 02445

Dear Mr. Carey,

On behalf of the SYDA Foundation, I wish you a holiday season of peace and joy. We are grateful for the work that you and the Town of Brookline do with such professionalism and care. Your service makes our community a safer and friendlier place to live, work and recreate.

During this season of giving, we are pleased to make a gift of \$3,000 in acknowledgement of your significant contributions to the well-being and safety of the Brookline community. It takes a committed village of individuals standing together to safeguard that which we cherish.

Thank you for your caring service. May you have a very happy New Year.

Best Regards,

A handwritten signature in black ink, appearing to read "Joseph Buga", with a long horizontal line extending to the left.

Joseph Buga  
Trustee



# *Town of Brookline*

## *Conservation Commission*

*Marcus Quigley, Chair*  
*Roberta Schnoor, Vice Chair*  
*Werner Lohe*  
*Pallavi Kalia Mande*  
*Pamela Harvey*  
*Samuel Burrington*  
*Will Corrdin*

**Associates**  
*Marian Lazar*

### **Memorandum**

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To: Heather Hamilton, Chair of Select Board

From: Thomas Brady, Conservation Administrator

Cc: Erin Chute Gallentine, Commissioner of Public Works  
Alexandra Vecchio, Director of Parks and Open Space  
Ken Goldstein, Goldstein & Herndon

Date: January 26, 2023

Re: 100 Cottage Street Conservation Restriction

Attached please find a Conservation Restriction for the Boards consideration and approval. This proposed Conservation Restriction is located at 100 Cottage Street and has been developed by the Brookline Conservation Commission working with representatives of the owner, The Massachusetts Division of Conservation Services, Town Legal Counsel, and Town Assessor.

The Conservation Restriction is located on the North and Northeast edges of the parcel and is approximately 18,278 square feet. The parcel is adjacent to and contiguous with existing land owned and preserved by the Brookline Land Trust. Additionally, this Conservation Restriction meets all the requirements set forth by the Town's Conservation Restriction Policy.

Upon receipt of the executed legal documents for the Conservation Restriction from your office the commission will forward these to Counsel for the owner who will then forward the record to the Massachusetts Division of Conservation Services and the Executive Office of Energy and Environmental Affairs.

When fully executed this will be the twentieth Conservation Restriction the community has secured to preserve and protect our open spaces. Thank you for your consideration of this matter. I am available to address any questions or concerns you may have.



**TOWN OF BROOKLINE**  
*Massachusetts*  
**DEPARTMENT OF PUBLIC WORKS**

*Erin Chute Gallentine*  
 Commissioner

## Memorandum

To: Select Board  
 From: Erin Chute Gallentine, Commissioner of Public Works  
 Date: January 27, 2023  
 Re: **Proposed Increase in Sanitation & Recycling Rates for FY24**  
 Cc: Chas Carey, Town Administrator  
 Melissa Goff, Deputy Town Administrator

The Town operates a comprehensive hybrid Pay As You Throw (PAYT) refuse and recycling program that utilizes 35, 65, and 95-gallon waste cart sizes. The program relies on revenue generated by the refuse fee to offset a portion of the total cost of solid waste collection and disposal, recycling collection and material processing, and yard waste collection and disposal. The target cost share is 75% resident fee and 25% Town tax subsidy. Since the program commenced in 2017, fees were increased once in January 2021. Largely due to changes in the refuse and recycling market, collection and administrative costs, and inflation for supplies and services, Town costs have increased significantly since the program began. The current cost share for the program is 70% covered by the refuse fee and 30% Town subsidy. Program costs have increased by 15% since FY21. Below please find a detailed analysis and recommendation to increase and rebalance refuse fees to establish a cost-share goal of 75/25. The rate increase has been developed as part of the FY24 DPW budget and is proposed to take effect July 1, 2023.

The Department of Public Works respectfully requests consideration and approval of the hybrid PAYT Refuse & Recycling program fees as follows effective July 1, 2023:

Sanitation Program Fees Effective July 1, 2023	
35 Gallon Waste Cart Fee	\$250/Year
65 Gallon Waste Cart Fee	\$336/Year
95 Gallon Waste Cart Fee	\$425/Year
Cart Waiver –Bags Only Collection Fee	\$208/Year
Overflow Bag Fee	\$4.00/Bag
Cart Swap Fee	\$40/Swap
Special Bulky Item Pick-up	\$10/Item
White Goods/Electronics	\$20/Item
Mattresses	\$55/Item

### **Background**

The Town of Brookline Department of Public Works manages a comprehensive hybrid PAYT refuse and recycling program. The program has three primary levels of service that allow residents to customize the program to meet their needs. The program is currently funded by an annual user fee of \$230 (35-Gallon), \$310 (65-Gallon) and \$392 (95-Gallon). In addition, the program allows for the purchase of overflow bags priced at \$3.70 per bag or \$18.50 for a roll of five (5) bags. Depending upon the recycling market and refuse disposal and collection fees, cost recovery has ranged from 78% to a low of 61% in 2020. The continued increases in recycling processing fees are largely attributed to the loss of the Chinese markets for recycled materials in 2018. While the waste management industry is looking to build and resource local options for the recycling market global events, such as the pandemic and war in Ukraine, disrupted commerce, supply, production, and costs as seen by marked inflation across nearly all sectors. The increase in solid waste disposal and processing fees is in part due to a shortage of regional disposal options and increases in transportation, environmental, and service costs. Across the country refuse and recycling costs are increasing dramatically. The Town of Brookline Solid Waste Advisory Committee (SWAC) and DPW staff have identified ways to reduce the overall tonnage of material going into the waste stream and to divert materials to recycling, special waste or compost solutions.

### **Program Contracts and Administration**

In June 2020, the Town renegotiated and extended its solid waste disposal and recycling contracts with Casella Waste Systems. The 5-year contract executed by the Select Board is renewable for 1 additional year after FY24.

#### Contract PW/15-01 Disposal of Solid Waste

This contract is for the hauling and disposal of solid waste from the Brookline Transfer Station to disposal sites selected by the contractor. Contract prices have increased from \$118 to \$129.10 per ton. Wage rates, transportation costs, and limited disposal sites continue to impact costs. While solid waste disposal prices are increasing across the entire industry, Brookline is uniquely fortunate in that it can leverage its municipal transfer station in contract negotiations. Disposal costs are offset by a negotiated commercial host fee of \$168,000 per year. The FY24 contract base amount is \$929,350, a \$94,350 increase over FY21, and will be inflated by a minimum of 3% for FY25.

#### Contract PW/16-01 Curbside Collection and Processing of Single Stream Recycling

This contract is for the collection and processing of recycling materials in conformance with MA DEP regulations. The FY24 contract price for curbside collection, \$1,506,925, increased by \$127,875 over the FY21 contract price, and will continue to inflate by a minimum of 3% for each subsequent fiscal year. The base processing fee for recycling has increased from \$90 in FY21 to \$112 per ton in FY24. The contract fee increases to \$118 per ton in FY25. However, the actual cost to the Town is based upon the Average Commodity Revenue (ACR), which reflects the current market value for each commodity and varies monthly. When the ACR is less than the processing fee the Town pays the difference dollar for dollar. When the ACR exceeds the processing fee the Town receives 80% of the difference in revenue. Based on current market conditions, which have been severely impacted by the loss of recycling markets in China, the FY24 recycling processing cost is estimated at \$560,000. The total contract for FY24 is \$2,066,925 which is an increase of \$227,875 over FY21.

## 6.A.

In addition, the Town assessed costs for refuse collection, operations, program administration, environmental management, and special waste collection and disposal (including hazardous materials, metals, yard waste, organics, CRTs and bulk material). The Town also evaluated costs associated with trash storage inspections, enforcement and private hauler licensing. The Town has experienced a significant problem with the rodent population as a result of the pandemic and has determined that there are critical measures that must be taken to mitigate the problem, including increased monitoring and enforcement of improperly stored refuse. The budget includes a Code Enforcement and Inspection Supervisor as proposed in the Town's Rodent Control Action Plan. It also includes funding for the printing and distribution of public educational material. In addition, the budget includes the Zero Waste Program Manager position, initially grant funded, that is working on a myriad of ways to separate the waste streams and reduce the Town's overall tonnage going to landfill or to a waste-to-energy facility long-term. This position stays abreast of proposed regulatory changes, research and implementation of new vendors or programs, provides public assistance, establishes partnerships with other communities and seeks grants to support programming and services. This position is critical to assist the Town manage long-term costs associated with waste management.

### Cost Recovery

The DPW sanitation program cost with the new FY24 contracts is estimated at \$5,602,397. The Department has reviewed costs, and adjusted for current fiscal year wages, benefits and contracts, and recommends a fee increase across all program elements in order to account for program cost increases and realize the cost recovery goal of 75/25. In order to reach 75/25 cost recovery, the Town will need to produce revenue of \$4,201,798 as show below. The following chart shows the amount of revenue needed to reach various percentages of cost recovery, with the 75/25 column highlighted.

	FY24 SANITATION COST RECOVERY SCENARIOS						
	FY23	FY24					
PROPERTY TAX SUBSIDY	1,551,536	1,942,507	1,680,719	1,400,599	1,120,479	840,360	560,240
REFUSE FEE/BAG REVENUE	3,659,890	3,659,890	3,921,678	4,201,798	4,481,918	4,762,038	5,042,158
TOTAL COST	5,211,426	5,602,397	5,602,397	5,602,397	5,602,397	5,602,397	5,602,397
% SUBSIDIZED BY PROPERTY TAX	29.77%	34.67%	30.00%	25.00%	20.00%	15.00%	10.00%
% RECOVERED BY USER FEE	70.23%	65.33%	70.00%	75.00%	80.00%	85.00%	90.00%

The following chart details the existing fees along with the proposed increase in annual fees for each waste cart size and was developed to achieve the required revenue of \$4,201,798. The fees established for FY21 kept the relative cart fees generally proportional to the originally adopted 2017 fees, but included a modest incentive for smaller cart sizes, as recommended by Select Board Members and Advisory Committee members in 2020. The increases ranged from 21% for the smallest carts to 26% for the largest cart. The proposed increase in the FY24 fees is a straight percentage increase across all cart fees of 8.5% and the addition of a Pay-as-you-Throw model for large bulky special pick-ups. The Solid Waste Advisory Committee has discussed and recommended that these items be charged separately as they are a special service. The proposed FY24 fee includes a proposed Pay at you Throw fee for bulky special pick-up items.

## 6.A.

Cart Pricing		FY21-FY23			FY24		Increase		
		Current Rates			Proposed Rates				
Cart Size	FY21	Total	Actual	FY23	Total	Estimated	Percentage	Cost	Cost
Gal	# of Units	Annual Cost	Revenue	# of Units	Annual Cost	Revenue	Increase over 2021 Rates	Increase per Quarter	Increase per Year
35	5,923	230	1,362,290	7484	250	1,871,000	8.5%	5.00	20.00
65	4,540	310	1,407,400	3948	336	1,326,528	8.5%	6.50	26.00
95	2,243	392	879,256	1785	425	758,625	8.5%	8.25	33.00
Bags Only	57	192	10,944	57	208	11,856	8.5%	4.00	14.00
	12,763		3,659,890	13,274		3,968,009			

### Overflow Bag

		5 Bags per Roll Cost
30 Gallon Bag	Total Cost of per Bag \$4.00	\$20.00

### Cart Swap Service Charge

		Total Cost
Cart Service	Collection,Cleaning, Repair, Administrative and Replacement Services	\$40.00

### Special Pick-up Service/Disposal Charge

		Total Cost
Special Pick-up Cost Per Item	Large Bulky Items	\$10.00
Special Pick-up Cost Per Item	White Goods & Electronics	\$20.00
Special Pick-up Cost Per Item	Mattresses: Recycled per DEP	\$55.00

In November 2022, the Department of Environmental Protection instituted a mattress waste ban. All mattresses now need to be collected, separated, stored and then processed separately for recycling. In order to cover these additional costs and to keep the overall rate increase relatively low, the Department and SWAC are recommending that the PAYT model be applied to special bulky waste including mattresses. The proposal is to charge \$10.00/item for special bulky waste, \$20.00/item for white goods and electronics and \$55.00 for mattresses. The combination of these special item pick-ups is anticipated to generate \$235,000. The total proposed revenue for FY24 of \$3,968,009 with totter fees and \$235,000 for special bulky pick-up items will yield \$4,203,009.



## 6.A.

Adoption of the new rates will restore the cost recovery of the Sanitation Program to previously accepted levels and provide the Town with the additional revenue needed to fund cost increases for the additional recycling processing costs and to fund the new contract extensions. It will also enable the Town to hire a much-needed Code Enforcement and Inspectional Services Manager to help control waste storage problems that are a significant contributing factor to the rodent population and to fully fund a Zero Waste Program Manager that will help the Town secure grants, employ new waste reduction strategies, evaluate costs, manage the Zero Waste Plan that helps the Town think, plan and prepare long term about its waste management future. We are hopeful that new recycling markets will open in the next couple of years alleviating the pressure on this commodity.

In addition, the Department will continue cart swaps at once per year with a service fee of \$40 to cover cleaning, disinfection, repair, pick-up and delivery costs associated with the service. This fee is remaining the same. New property owners may swap carts initially at no charge.

The PAYT refuse and recycling fee has not been increased since 2021. Costs in the solid waste market have increased over the last 2.5 years. We recommend that you review and approve the proposed increase in fees based upon a target goal of 75% resident user fee and 25% Town property tax subsidy. The rate adjustment is intended to rebalance the cost share between the resident and Town for this service.

The Solid Waste Advisory Committee and Town Staff continue to search for new ways to minimize solid waste to control costs and to reduce our collective impact on the environment.



TOWN of BROOKLINE  
Solid Waste Advisory Committee

*John Dempsey, Chair  
Deane Coady  
Mary Litterst  
Kathleen O'Connell  
Clint Richmond  
Susan Rittling*

January 27, 2023

Select Board  
Town of Brookline  
333 Washington Street  
Brookline, MA 02445

Dear Members of the Select Board:

The Solid Waste Advisory Committee's mission is to advise the Select Board about solid waste issues.

At SWAC's January 24, 2023, meeting, DPW Commissioner Gallentine outlined several different options to restore the traditional 25%/75% split for funding the Sanitation Division (25% from property taxes and 75% from user fees).

The options include raising the Refuse Fee for FY 24 and establishing "pay-as-you-throw" fees for curbside collection of bulky waste.

SWAC unanimously and enthusiastically advises the Select Board to follow the Commissioner's recommendations. It is important to restore the 25/75 split, to lessen the burden for residents who don't subscribe to town service, and to equitably distribute the costs of disposing of banned bulky items as mattresses, electronics, and items containing refrigerants.

Respectfully,

John P. Dempsey

cc: Mr. Charles Carey, Town Administrator  
Ms. Erin Gallentine, Commissioner



# TOWN of BROOKLINE

## *Massachusetts*

**CHARLES CAREY**  
TOWN ADMINISTRATOR

333 WASHINGTON STREET  
BROOKLINE, MASSACHUSETTS 02445  
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**To:** Select Board

**From:** Charles Carey, Town Administrator

**Date:** January 30, 2023

**Subject:** Beacon Street Bridle Path Restoration Project  
Matching Funds Source Prioritization

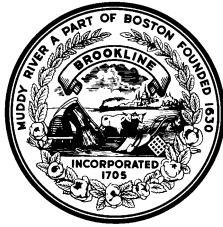
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On December 23, 2022, Representative Jake Auchincloss's office announced that the Beacon Street Historic Bridle Path Restoration project in Brookline would be receiving \$2,000,000.00 in federal community project funding. This exciting opportunity comes with a 100% match requirement. You previously allocated \$1,000,000 in American Rescue Plan Act ("ARPA") funds towards this amount.

Rather than returning to the depleted store of ARPA funds, add to a potential operating override, or increase the operating budget's structural deficit, I recommend that the Select Board seek the remaining \$1,000,000 match from the funds collected by Brookline's Community Preservation Act ("CPA") levy. Those funds, controlled by the CPA Committee, will be available for applicants in Fall of 2023. Vouching now that your highest priority in the "recreation" category of CPA-eligible expenses will be the Bridle Street Path sends a clear message to the Committee as it considers how best to allocate CPA money for the first time in Brookline.

Accordingly, I respectfully request that you vote tonight on transmitting a recommendation to the CPA committee that identifies a request for \$1,000,000 in matching funds for the Bridle Path Restoration project as your top priority under the recreation category of CPA funds. Thank you for your consideration of this request.

**END OF DOCUMENT**



# TOWN of BROOKLINE

## *Massachusetts*

**CHARLES CAREY**  
TOWN ADMINISTRATOR

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**To:** Select Board

**From:** Charles Carey, Town Administrator  
Kara Brewton, Planning & Community Development Director

**Date:** January 30, 2023

**Subject:** Harvard Street Study re: MBTA Communities Act

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Following the passage of the MBTA Communities Act (also known as “3A” due to its position in the Massachusetts General Laws), the Department of Planning & Community Development first presented to the Select Board in December 2021 ideas of how to comply with that law with minimal disruption to Brookline’s neighborhoods. The Board asked that Planning move forward with a proposal that would likely result in creative compliance with the spirit of the law, rather than a nominal response with no effect. Before you on January 31<sup>st</sup> is a request for funding to hire a form-based zoning consultant to incorporate zoning updates that the Department will vet with the public this spring, centered on Harvard Street from Station Street to Verndale Street.

As you know, the Act requires communities served by the MBTA to have a certain amount of land zoned for multi-family housing “as of right.” This term carries the specter of unrestricted development that does not take the community’s needs into account. That specter in turn causes a great deal of community concern. The Planning Department agrees that as-of-right permitting without the safeguards of specific design standards and public process would be a risk to the Town. This is why we urge a form-based zoning approach, along with a robust site plan and design review process for both as-of-right and special permit projects, to better ensure predictable design outcomes that meet the community’s intent for their neighborhood.

The Act is blunt: unlike laws that incentivize certain outcomes, the MBTA Communities Act mandates them. The current penalties for breaking that law include the loss of two potentially lucrative grant sources and a significant cut to the funding of the Brookline Housing Authority. The State could conceivably make those penalties even more onerous if it sees communities of Brookline’s size flouting the Act. And while some community members have encouraged outright defiance or at least a “wait-and-see” approach in the hopes that the Legislature will amend the Act in some way before an end-of-year deadline, those positions are, for the reasons described in this memo, wishful thinking. Without funding for a form-based zoning effort, the Planning Department will have no choice but to submit a proposal to Town Meeting without the safeguards form-based zoning provides in place.

Fortunately, thanks to the efforts of Planning staff in consultation with multiple Town stakeholders, Brookline is well positioned to respond to the mandates of the MBTA Communities Act. Early on, Planning proposed a series of blanket zoning across all zoning district types in order to comply, without the benefit of area-specific form-based standards. Planning Director Kara Brewton and Senior Regulatory Planner Maria Morelli have subsequently met with residents, community groups, Town Meeting Members closest to Harvard Street, and boards. The decision to focus on smart development on Harvard Street grew out of those conversations.

On January 29, 2023, the Steering Committee of the local organization Brookline By Design sent you a memo urging you not to approve this preliminary step towards evaluating the best options for MBTA Communities Act-compliant form-based zoning along Harvard Street. That memo was detailed in its concerns and sincere in its objections. We believe it is important to give those concerns the analysis they deserve, and so we have drafted this memo in response.

Brookline By Design's successful campaign slogan in the last election was "let's make a plan." Its leadership has repeatedly stated that it is not opposed to increased density, commercial growth, multi-family housing, or affordable housing mandates in principle. Rather, its concerns lie in whether zoning proposals follow an appropriate community engagement process that result in outcomes consistent with Brookline's historic character. According to their website, they seek to "moderniz[e] Brookline's antiquated land-use regulations to incorporate progressive regulatory tools and techniques that promote new growth and development that is both predictable and appropriate."

Developing a form-based zoning proposal for Harvard Street to satisfy the MBTA Communities Act mandate epitomizes the stated goals of Brookline By Design. The organization's principled objections to this course of action appear to stem from genuine misunderstandings about what has been proposed and what the potential outcomes could be. It is our hope that this memo puts those concerns to rest and encourages Brookline By Design's membership to engage collaboratively in this proposed community-oriented development of form-based zoning for Harvard Street.

## PROCEDURAL HISTORY

Before addressing Brookline By Design's specific concerns, we want to address the generally stated belief that the decision to present the Harvard Street as an MBTA Communities district to the Select Board was somehow "rushed" or lacked the voices of "many stakeholders." The Regulatory Division has been working on Harvard Street Study for the past two years to identify not only the barriers to multifamily and mixed-use development, but also gaps in the zoning that jeopardize the quality of the retail-centered streetscape and the integrity of architecturally significant buildings.

As early as December 2021, the Planning Director publicly discussed several options for compliance with the MBTA Communities Act, which admittedly would be disruptive to the smaller residential neighborhoods. After receiving a grant to work with the Department of Housing and Community Development to refine their compliance model, the Planning Director was convinced that the Harvard Street Study's recommendations would dovetail with the MBTA

Communities Act criteria in a holistic way that would allow its use as the identified district to remedy potential threats to this cherished part of the Town in the short-term.

Working around the Fall 2022 and January 2023 Town Meeting schedule, the Planning Department engaged with the community on the significance of the Act's mandates and this least radical proposal. As for community outreach, Ms. Morelli held a community meeting with residents of Precincts 2, 8, 9, 11, and 17. She accepted invitations to speak from numerous community organizations and individual Town Meeting Members, including Linda Olson Pehlke, member of Brookline By Design's Steering Committee.

Ms. Morelli has presented to numerous boards and commissions over the course of the past several months, resulting in public letters of support for from all four major land use boards/commissions in the Town: the Planning Board, the Preservation Commission, the Housing Advisory Board, and the Economic Development Advisory Board.<sup>1</sup>

The reality of the present situation is that, if we are to have approximately five-plus months to conduct the kind of in-depth community-oriented process necessary to develop form-based zoning for properties along Harvard Street, we must procure a consultant who can lead that process now. Our presentations to multiple other organizations and community members to this point have provided ample opportunity for comment, and the time for the Select Board to decide on whether to proceed has arrived.

### SPECIFIC CONCERNS

Brookline By Design's argument that the Select Board should not greenlight the development of a potential form-based zoning proposal for Harvard Street is divided into three sections. We will address each in turn, reprinting the organization's arguments verbatim in block-text italics as appropriate.

#### *A. Specifics of the MBTACA Guidelines and the Difficulties they Pose*

- 1) **UNREASONABLE TIMING:** The deadline for compliance (i.e. passage of a compliant zoning change) is this Fall's Town Meeting, the filing deadline for which is a mere 7 months away. That leaves no time for possible altering of the existing guidelines, no time for the necessary refinement of the proposal, no time for the careful urban design and form-based coding needed, let alone adequate community engagement or the necessary insights to be gained from looking at alternative ways to meet the MBTACA Guidelines.*

We respectfully disagree. We look forward to presenting the Planning Department's specific project plan to the Select Board on the 31<sup>st</sup>, which demonstrates not only the feasibility of this schedule but some of its benefits. Hiring an outside consultant to drive the process while contractually obligating community-oriented deliverables, for example, eliminates a frequent problem with volunteer-based boards failing to meet even generous deadlines while ensuring the

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<sup>1</sup> Copies of these letters are attached as Appendices A-C (the Planning Board and Preservation Commission submitted a joint statement).

Town is meaningfully engaged. A concise but well-organized project plan will result in a well-tuned final proposed product reaching Town Meeting in the fall after evaluation of options by the Select Board and the broader community.

- 2) ***NO MIXED-USE:*** *Under the MBTACA Guidelines, we cannot mandate commercial uses on the first floor, even though retail and other active uses at the street level are critical for a vibrant mixed-use district. Some of our most cherished and vital local businesses, such as Brookline Booksmith, could be displaced if we incentivize redevelopment through adoption of zoning based on the guidelines as written.*

The MBTA Communities Act neither prohibits nor mandates any use, including residential use. It would be permissible to allow a 100% commercial building in an MBTA Communities district. It does not permit commercial use to be mandated, as such mandates could create a financial drag on the project, making a mixed-use project uneconomic. In other words, not only does the statute allow commercial uses, it allows commercial uses to be incentivized. The sole prohibition in the Act's guidelines is a *mandate* of commercial use.

Our current zoning bylaw mandates "non-residential use" on the ground floor in Local Business and General Business Districts, which make up the majority of Harvard Street. In practice, however, mandates do little to support the retail component in a mixed-use project. The Town cannot mandate an actual lease or an economically feasible mixed-use project, which can lead to the mandated space sitting vacant, particularly if, as on Harvard Street now, businesses complain that the area is not densely populated enough to sustain them.

For this reason, independent of MBTA Communities Act criteria, the Planning Department's forthcoming Harvard Street Study proposes incentivizing ground floor commercial use. One possible incentive is to create synergy between ground floor commercial space in this cherished "Main Street" neighborhood and affordable housing. This strategy may ensure that developers have flexibility for successful developments that will achieve mixed uses with affordable housing on site. The attached letter from the Housing Advisory Board expresses its support of such an approach for Harvard Street. The terms of such an incentive have not been determined.

- 3) ***NO SPECIAL PERMITS:*** *The MBTA district must allow multi-family by-right. That means that many of the current checks and balances in our permitting process must be recreated in a "check-list" format, which cannot be responsive to site-specific issues. In Brookline, because of our complex urban landscape, much more development occurs because of the special permit process, not despite it.*

This is incorrect on multiple levels.

**Special Permits Are Allowed:** As long as as-of-right projects are feasible, the State has confirmed that zoning for the MBTA Communities district can allow provisions for Special Permits. It is absolutely reasonable to attach a discretionary review to large Major Impact Projects, and as the State confirmed, it is permissible in an MBTA Communities district.

**Regulations and Design Review Process Require Legally Defensible Standards that we Currently Lack:** As the forthcoming Harvard Street Study analyzes, our zoning bylaw does not regulate desired outcomes for Brookline's richly varied neighborhood types. (Section 5.09, detailing community and environmental impact standards, contains performance criteria and not specific standards for building and architectural design for, say, two-family districts in north Brookline.)

Moreover, Brookline's National Register Districts, including the Brookline Village Commercial NR District on Harvard Street that was created 40 years ago, have absolutely no architectural standards to protect them legally from demolition or insensitive exterior renovations that would destroy character-defining features of architectural gems built in the late nineteenth century. The Planning Board and the Preservation Commission concur that this omission is a threat to the Town's heritage, and is most supportive of the opportunity the MBTA Communities Act will afford us to remedy this liability.

This lack of design standards means that design review is conducted in a manner that is extremely burdensome to the developer, even though the review itself and conditions imposed through decisions may not be legally enforceable anyway.

Although government has police powers that authorize it to regulate private land, the United States Constitution has provisions that affect local land-use regulations to protect the individual's property rights. The due process clauses of the Fifth and Fourteenth Amendments encompass both "procedural" and "substantive" due process, concepts discussed in more depth in the Harvard Street Study. Briefly, one strand of procedural due process is the requirement that the regulations not be uncertain or vague; a person of ordinary intelligence must have a reasonable opportunity to know what is being prohibited. Substantive due process requires that the regulation or decision not be arbitrary or capricious.

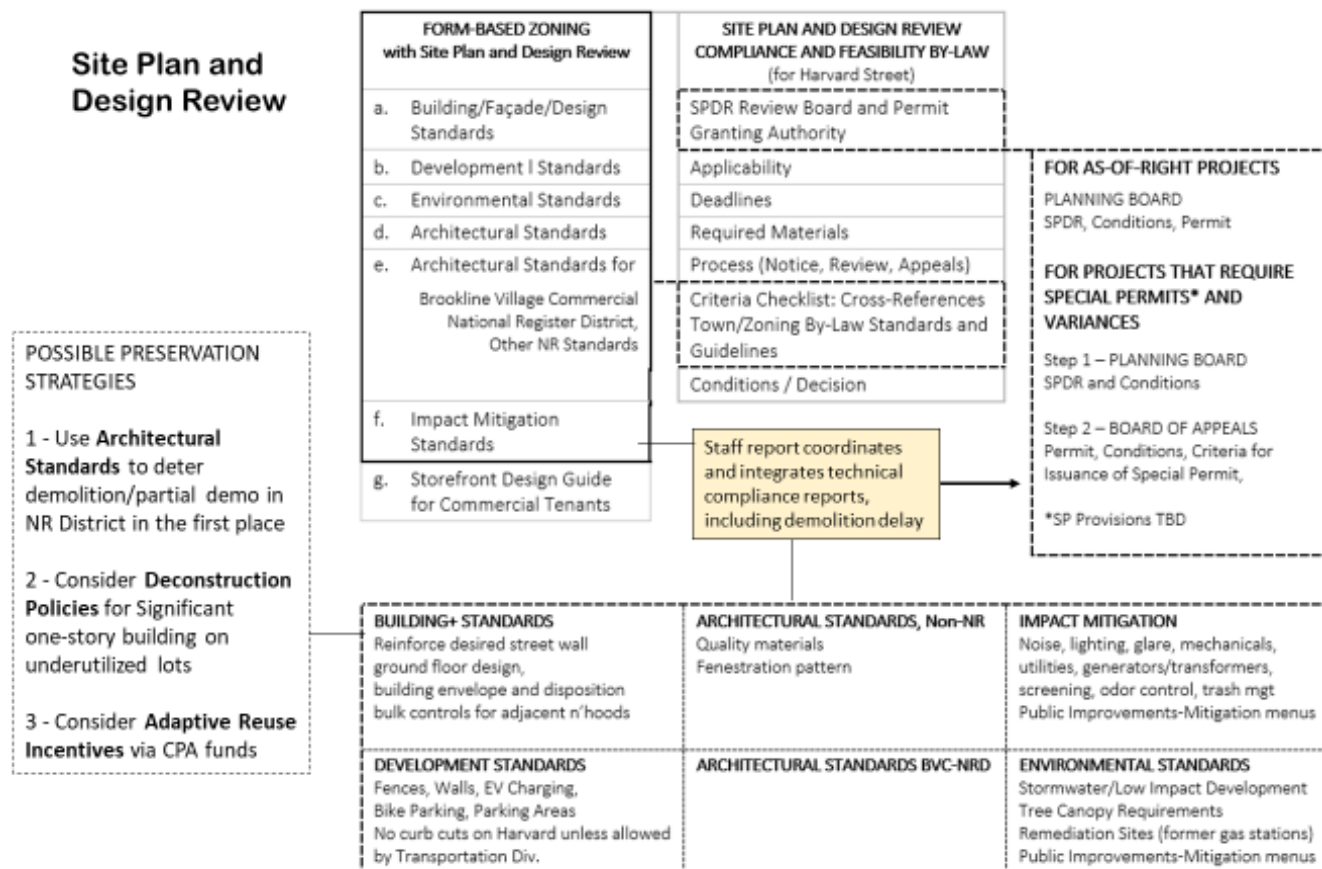
In other words, we are obligated to provide express standards against which decisions can be judged. The Special Permit Design Review has been overly relied upon as a proxy for these lack of standards in the Town's zoning regulation, and applicants have complained about the lack of certainty that makes permitting such a burden in Brookline.

A form-based zoning approach would allow a process by which the community's intention for their neighborhood can be memorialized in standards that (a) the public readily understands, (b) developers can use to plan their projects to meet this intention, and (c) land-use boards can use to enforce compliance with desired outcomes. This is precisely the "predictable and appropriate" approach Brookline By Design advocates on its website.

**Safeguards for Both As-of-Right and Special Permit Projects:** In addition to setting forth design and architectural standards in a form-based zoning approach, we propose a Site Plan and Design Review process that would apply to both as-of-right and special permit projects. This means a public process with more design review, just as Brookline By Design wants, not less. Moreover, with specified design standards, the public would be assured of more predictable outcomes. As of now, residents are fraught with anxiety when a project is proposed because they do not understand what the outcome of the design review process will be.



Below is the Planning Department's proposed Site Plan and Design Review process for Harvard Street that would achieve more rigorous and coordinated reviews than are currently conducted under Section 5.09 Design Review.



**The Current Zoning Is Dramatically Inequitable:** The following facts may be of interest to the Select Board.

- A 25,000 square-foot single-family home may be permitted as of right in Brookline.
- Four units of housing in a multifamily zone requires a special permit.
- A 25,000 square-foot mixed-use four-story building on a 10,000 square-foot lot on Harvard Street requires a variance.

Four units is the very definition of “multiple dwelling” in the zoning bylaw. The inequity toward and barriers to multifamily uses was the catalyst for our Harvard Street Study. It is this kind of inequity that the MBTA Communities Act was drafted to address.

It may also surprise you to learn that, as of 2023, multifamily and mixed-use development on Harvard Street is illegal unless the State supersedes our local laws. This is not because residential uses are prohibited, but because zoning metrics, such as floor-area ratio, preclude buildings constructed to the four-story scale ostensibly allowed under zoning. Not only does this policy run

counter to state and federal fair housing laws, it is ripe for attack by the State should Brookline attempt to argue it is somehow unique in the burden it bears under the MBTA Communities Act.

**Historical Multifamily Growth Has Been Driven by Chapter 40B Process:** Between 2000 and 2022, about 3,000 multi-family units were permitted in Brookline. Almost half were achieved under Chapter 40B, which gives the Town little leverage in shaping their outcomes.

On Harvard Street, only one 12-unit project was permitted nearly 20 years ago under Chapter 40A with no affordable housing on-site. In contrast, nearly 200 units were permitted on Harvard Street under Chapter 40B in the last five years, with nearly half deeded in perpetuity.

Brookline By Design has been critical of the 40B process as a blunt instrument incompatible with achieving broader equitable housing goals. A form-based zoning district along Harvard Street is a proactive solution that will integrate policy goals for sustainability, affordable housing, commercial/retail space, preservation, and urban design.

- 4) NO CREDIT FOR EXISTING UNITS:** *If the newly designated district encompasses buildings larger than the new zoning allows, the existing units in those buildings that exceed the zoning limits cannot be counted in the “capacity” of the new district. (We are required to create a by-right multi-family zone with a capacity for 6,990 units regardless of how much housing is already built). This is another way in which already dense communities do not get “credit” for the multi-family housing they already have.*

The MBTA Communities Act is not a housing production plan. We are not mandated to build any housing units at all or even report if any are produced under MBTA Communities zoning. The 6,990 units is a number that describes the zoning area’s hypothetical capacity to meet this goal.

- 5) ASSUMES SURFACE PARKING:** *If the new MBTA zoning district has parking requirements, the guidelines assume all parking is surface parking and subtracts the amount of land area necessary for that parking from the capacity calculation, even though underground or shared public parking are more likely solutions in an urban setting.*

Brookline By Design is correct that the MBTA Communities Act model does not distinguish between surface, below grade, or structured parking within the building footprint, which can penalize zoning that requires parking minimums. However, this rigidity in the model is not relevant to Harvard Street. Our forthcoming Harvard Street Study proposes setting a maximum of 1.0 parking spaces per dwelling unit, though a special permit provision could allow ratios higher than 1.0.<sup>2</sup> Evidence from technical peer review of parking demand for the six Harvard Street 40B projects cites a parking ratio of 0.4 to 0.7 spaces per dwelling unit—far below a ratio of 1.0.

Parking reductions are consistent with the intent of Warrant Article 23, adopted by Town Meeting. That article has a special permit provision that, according to the Building Commissioner, allows a

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<sup>2</sup> We are not asking the Select Board or any Board to vote on this proposal at present, as this will be vetted publicly in the spring.

developer to propose zero parking on site. Entering zero into the MBTA Communities model completely eliminates any potential penalty for Harvard Street.

In general, performance zoning like parking ratio minimums has been a leading barrier to housing development in Brookline, at least until the bylaw was changed progressively to reduce these requirements. Staff supports this policy direction adopted by Town Meeting. In a transit-rich district like Harvard Street that has two walkable supermarkets and multiple smaller essential goods vendors along it, parking minimums simply do not make sense.

- 6) EXCLUDES MICRO-UNITS, STUDIOS, AND 1-BEDROOMS:** *The MBTACA Guidelines mandate that any multi-family housing permitted in the new “by-right” district must be suitable for families, i.e., we cannot mandate or incentivize smaller housing units that would be suitable for young professionals, empty nesters, etc.*

These residential uses are not prohibited, and, contrary to Brookline By Design’s assertions, can be creatively incentivized, provided we do not do so to the exclusion of family-sized units.

- 7) UNCLEAR INCLUSIONARY HOUSING REGULATION:** *While the MBTACA Guidelines theoretically allow us to retain our inclusionary housing requirements, it is unclear how effectively we can enforce them in the context of “by-right” development since they are currently extremely detailed and complicated and administered through the special permit process.*

Housing staff already administers and monitors ongoing compliance with our inclusionary housing requirements in perpetuity. We recommend decoupling the inclusionary zoning requirement from the special permit requirement along Harvard Street and making it an across-the-board requirement. After all, why would we attach a discretionary special permit process to something we already think important to mandate in this district? It would complicate the permitting process and drive up the cost of housing.

- 8) IGNORES EXISTING DENSITY:** *Brookline already meets the “goals” of the MBTACA many times over. In fact, you could characterize the Guidelines as trying to make suburban communities more like Brookline. The Guidelines require a rapid transit community to zone to have at least 25% of their housing be in buildings with 3 units or more. In Brookline’s TPOD 75% of the existing housing already meets that criterion. Within our transit overlay district (TPOD), population densities are equivalent to the densest communities in the region like Chelsea, Somerville, and Cambridge, approximately 18,000 people per square mile.*

This is a broader objection to the mandates of the MBTA Communities Act rather than a specific complaint about Harvard Street. Nevertheless, broader statements about density aside, we still have a critical need for affordable housing as stated in latest update to the Housing Production Plan. In addition, the Town is only just above the threshold that keeps 40B projects at bay, and we may not be for much longer due to recent, constant, and vocal antipathy toward the development of new housing of any kind.

In the 2022 Housing Needs Assessment, Harvard Street was identified as a prime opportunity for housing growth. Our efforts have found numerous underutilized parcels along Harvard Street that could potentially provide affordable housing without changing the character of the neighborhoods in which they are situated. Using the MBTA Communities Act as an opportunity to facilitate that development instead of reacting with little leverage to Chapter 40B proposals is a very appealing proposition.

- 9) **FOSTERS DEMOLITION AND DISPLACEMENT:** *The MBTACA Guidelines require Brookline to have a contiguous 41 acre district that is zoned for a “by-right” minimum density of 15 units per acre. Brookline already has **hundreds if not thousands of acres** with a density of 15 units per acre or more. The creation of new higher-density zoning will likely result in large-scale demolition, and displacement of modestly priced housing and local small businesses. These displacement threats are very real and likely to occur under the current Harvard St. up-zoning proposal.*

The Harvard Street proposal would reinforce the four-story scale already allowed under current zoning. Brookline By Design does not identify how higher density zoning will “likely result in large-scale demolition,” particularly in an area where form-based zoning requirements will disincentivize such a move.

As for the claim that a new evaluation of Harvard Street automatically constitutes “up-zoning,” current maximum heights allowed on Harvard for multifamily and mixed-use buildings are 40 feet (L, M-1.0 districts), 45 feet (G, M districts), and 50 feet (M-2.0 district). Because those are close in value, they “read” overall from the street as 3.5 to 4 stories. For example, in the below photo of Harvard Street facing south, these four buildings between the Alton Place and Vernon Street cross-streets create a coherent street wall even though their cornice (roof) lines varying from 35 to 47 feet. This is the kind of streetscape that we would want our MBTA Communities Act zoning to maintain.



Some commenters have argued that Harvard Street should be capped at a maximum height of 40 feet across the board. Because of practical construction needs and development pattern of 15-foot ground story for commercial use, 40 feet max height would discourage ground floor commercial development. To remedy this, our forthcoming Harvard Street Study recommends a maximum height of 45 to 48 feet at the cornice line.

Reminder: The existing zoning already allows four-story scale and both residential and commercial uses. Form-based zoning creates affirmative conditions for development consistent with the neighborhood's character. Harvard Street's great urbanism is the very model of sustainable mixed-use walkable development that Brookline By Design seeks. (We assume Brookline By Design is not recommending down-zoning Harvard Street to a maximum of one or two stories.)

Nonetheless, no zoning changes have been decided yet. What is before the Select Board is a request to support a form-based zoning approach for this cherished main street district.

**10) PROHIBITS DEVELOPER CONTRIBUTION TOWARDS PUBLIC BENEFITS:**

*Brookline has historically negotiated with developers to secure funding to mitigate localized impacts and make enhancements to public facilities in the vicinity of a development. This is known as value-capture. The MBTACA Guidelines prohibit this.*

Again, this is incorrect. Mitigation funds are allowed under Site Plan Review under the MBTA Communities Act for both as-of-right and special permit projects. The forthcoming Harvard Street Study recommends memorializing in a future zoning bylaw that impact mitigation funds may be exacted for public improvements to be legally defensible and to ensure that relevant Town departments can take advantage of these measures (for shade tree funds, sidewalk improvements, BlueBike installations, and so on).

**11) REQUIRES THE ENTIRE CORRIDOR TO BE ZONED THE SAME:** *The idea that Harvard St. could meet the MBTA Guidelines as written requires that the 4-story rubric be applied uniformly through-out the corridor. While this building scale may be appropriate in some areas, we may determine that some areas could benefit from greater scale, while others clearly should be less. The Guidelines limit our ability to tailor zoning to specific site conditions.*

Staff has repeatedly stated as much in public meetings that certain nodes at Stop & Shop and TJ Maxx may benefit from additional zoning overlay districts in the future that could allow variable massing to exceed four stories. But for now, we need a baseline of acceptability.

A functional base zoning text reinforces the four-story scale would respect the current streetscape while allowing for future analysis of specific overlay districts that allow for taller buildings. Brookline By Design does not identify which areas along Harvard Street "clearly should be less" than this four-story height, nor do they identify why they believe any potential down-zoning from the current standards along Harvard Street would serve the community's needs.

***B. Fundamental Concerns with the Planning Department's Proposed Zoning Amendment for Compliance with the MBTA Communities Act Guidelines:***

- 1) *OPTIONS OTHER THAN HARVARD STREET:*** *The Town was not presented with optional district designations beyond the Harvard Street corridor to meet compliance. (MBTA Communities Act Guidelines for multi-family districts include all areas within one-half mile of an MBTA stop.) The Town has not been presented with alternative options that would be less impactful, or that would not concentrate further growth in an area already heavily impacted by recent 40B developments. It may be possible to devise a compliant district or districts that would not be up-zoning and therefore would have minimal impacts to buy time for a more refined approach.*

The Planning Director listed other options to the public in her December 2021 presentation. Those options would have required 100+ acres of land area in North Brookline and allowed, for example, up to two accessory dwelling units in one- and two-family districts. Given groups like Brookline By Design's express desire to maintain the character of the two-family districts, the Planning Department recommends refraining from zoning changes in these areas as part of the MBTA Compliance effort.

Under such circumstances, the comparatively compact Harvard Street area proved an attractive option. Furthermore, because staff had already begun the Harvard Street Study in 2021, the Town could achieve the Act's requirements more easily with the benefit of a detailed study that would inform a form-based zoning consultant's work.

The forthcoming Study recommends a "Reinforce and Enhance" level of intervention along Harvard Street, because this current scale would:

- Maintain neighborhood character
- Maintain economic viability, according to developers
- Allow for meaningful infill development without rapid turnover

- 2) *FORM-BASED CODE TIMELINE:*** *The proposed timetable to formulate, review, and approve a form-based zoning code is unrealistic and unprecedented. For instance, the example used in the Planning Department's presentations cite Somerville's form-based code as an example. Somerville's new code is 568 pages and the section dedicated to mid-rise buildings is 112 pages.*

Somerville's new code covers an entire city of 81,000+ residents with multiple extant commercial and industrial developments, and was developed over many years of revisions. This proposal is for 1.5 miles of a single street at the vanguard of a district-by-district approach to rezoning. The State-imposed deadline here ensures that the data we use to inform the final proposed language is fresh and appropriately targeted to the district in question.

Provided we sign a contract with the consultant in early March, we are confident we will have an excellent and engaging process unfold in the subsequent months.

- 3) **COORDINATION WITH OTHER PLANNING:** *Selecting Harvard Street because there was previous study of the corridor does not suffice as a planning rationale to target our main commercial corridor. There has been no coordination with other planning initiatives including the HPP, AHOD study, Boylston Street Corridor study, and the Comp Plan update. (For example, the HPP identifies several areas with potential for multi-family housing development not on Harvard Street.)*

As previously noted, Harvard Street was not selected merely because a study was pending. The other alternatives were less palatable from planning and community perspectives.

Additionally, the forthcoming Harvard Street Study is compatible with the Comprehensive Planning process and outright implements recommendations in the Housing Production Plan by remedying non-functional multifamily zoning. A Comprehensive Plan sets forth broad goals, not granular zoning district plans.

As we stated earlier, the Harvard Street Study may inform current and future overlay district studies, like the Affordable Housing Overlay District study. Overlay district studies will not document the existing development pattern to the granularity of the Harvard Street Study, however. Furthermore, the Harvard Street project would serve as a form-based zoning pilot that can inform the Comprehensive Plan process.

- 4) **CHANGE IN FUNDAMENTAL ZONING PARAMETERS:** *The proposed rezoning requires elimination of the current Zoning By-Law requirements for (a) ground-level commercial space and (b) minimum parking requirements. These are essential parts of the land-use regulations for Harvard Street, one of the Town's few densely developed commercial / mixed-use corridors.*

We have previously addressed the concerns regarding commercial space and minimum parking requirements in Part A, above.

- 5) **THE MAGNITUDE OF CHANGE:** *In presentations to Boards and Committees, the Planning Department has asserted that these proposed changes are not up-zoning. It's unclear how the proposal could be construed as such, since much of the corridor has a maximum height of 40', which is clearly insufficient for a 4-story building, especially in the context of 15' first-floor ceiling heights. However, it is the elimination of FAR that constitutes the greatest up-zoning, which along most of the corridor represents at least a tripling of the sq. ft. of usable building space that can be built, which would radically alter the massing of structures along the corridor.*

**Floor-Area Ratio:** "FAR" means "Floor-Area Ratio," which is the relationship between the total amount of usable floor area that a building has and the total area of the lot on which the building stands. As the forthcoming Harvard Street Study has exhaustively documented and analyzed, FAR does not ensure predictable design outcomes, and eliminating it in a district that mandates form-based zoning prevents the perverse outcomes that Brookline By Design posits above.



Performance metrics such as FAR play a large role in determining the development potential of a site:

- If the maximum FAR is too low, development is precluded.
- If it is too high, property owners will consider the maximum allowed FAR to be an entitlement and therefore will want to build to the maximum allowed to realize a return on the investment.
- It is challenging legally to require massing adjustments in design review that may lower the FAR below the maximum allowed. In both scenarios, the town encounters risks: on one hand, unrealized development potential could impact the economic health of a community; on the other hand, it can be challenging legally to enforce design changes that run counter to the dimensional standards allowed under zoning.
- If lots are unusually large or if several abutting lots are merged to create one large lot, FAR will not be sufficient to regulate massing so that building's volume is segmented to mitigate its scale.
- Harvard Street's lots vary widely in size, from 1200 sf to 110,000 square feet. FAR is too imprecise to be reasonably applied across parcels, even if they abut each other.

Consider the following examples:

**41 Centre Street** (as viewed from rear abutting 340 Harvard Street). Max allowed FAR 1.0:



Although this building conforms to height, FAR, front yard setback, and fence/wall height requirements (FAR is only 0.72 of the 1.0 max allowed), its disposition is incongruous with the development pattern typical of Harvard Street. The site's frontage runs counter to the standards staff recommends be regulated in a form-based zoning approach: (1) No front yard parking. (2) Low fences (if any). (3) Buildings are constructed close to the sidewalk, with massing that is human scale and segmented to align with the width of shops on the ground floor.





Compare with the four-story **5 Harvard Square** above, which has an FAR of 4.39, despite a max allowed FAR of 2.0 under current rules. Under the Town's current zoning this commercial/residential National Register district property built in 1884 could not be constructed.

Eliminating FAR and instead setting standards for the building's form, or envelope, is at the heart form-based zoning. According to Daniel G. Parolek, an architect and principle of Opticos Design based in Berkeley and Chicago, who wrote the definitive textbook on form-based codes:

"FAR has absolutely no role in [Form-Based Codes] and should not be used. If FAR is used as a primary tool for regulation and entitlement, a developer will simply max out the FAR, thus creating very 'boxy' buildings with little variation in massing. Other regulation parameters provide more predictable results and should be used in its place. An appropriate combination of height, maximum building depth, distance between buildings, and size and massing requirements within Building type Standards should be used instead.<sup>3</sup>"

The elimination of FAR would be substituted with parameters for the building envelope, ensuring predictable design outcomes. Brookline By Design is thus incorrect in claiming FAR's elimination is de facto up-zoning, as some resulting FARs of larger lots may be in fact lower than what is currently allowed. Additionally, until the form-based code is developed with the community, we cannot presume what the final outcome of a zoning proposal will be.

**Height:** See Part A, Item 9, above.

### ***C. Fundamental Concerns with the MBTA Communities Act and the Implementation Guidelines:***

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<sup>3</sup> Daniel G. Parolek, AIA, Karen Parolek, et al, *Form-Based Codes: A Guide for Planners, Urban Designers, Municipalities, and Developers* (Hoboken, New Jersey: John Wiley & Sons, 2008), 318.

The remainder of Brookline By Design's letter criticizes the MBTA Communities Act and its implementing regulations more generally. We agree that the Act is not perfect and that some of its requirements (particularly those prohibiting a commercial space mandate) are incongruous with Brookline's current practice.

The suggestion that we play a game of chicken with the Legislature in the hopes that they will amend the Act itself is, to put it bluntly, dangerous. At the close of the previous session of the Legislature, Brookline had four anodyne home rule petitions pending. Only one, regarding senior citizen property tax exemptions already common in other communities, made it through, despite the best efforts of our legislators. The idea that Brookline alone will somehow convince the broader Legislature that it is due unique relief from the Act's requirements is a fantasy<sup>4</sup>.

Similarly, the idea that the Legislature as a body will impress upon a new administration with a progressive housing background that it must somehow amend the MBTA Communities Act in advance of Brookline's deadline to comply at the end of the year is at this point wishful thinking. Many of our peer communities lack the kind of elegant opportunity that the Harvard Street area affords Brookline and may be unwilling to join in a coalition with us to change the law in a way that reflects our community's needs. For better or for worse, we are an uncommonly placed municipality. Even if the law changes, it may not change the way we want it to.

Furthermore, we are highly visible, and so the stakes are higher. We pride ourselves on being at the forefront of other state initiatives such as the Specialized Energy Code. And this coming spring, we will be voting on fossil-fuel free zoning as a leading participant in the Department of Energy Resources' Fossil-Fuel Free Demonstration project<sup>5</sup>. Advocating for foot-dragging or open defiance of this law plays into the hands of those who would love nothing more than to paint us as hypocrites. On the opinion pages, we would be virtue-signaling Brookline, so eager to be progressive except if it means constructing or renovating four-story buildings. No amount of process-focused arguments from Brookline By Design or others, however earnestly intentioned, would insulate the regulators who sit in judgment over us from that opinion, and that could in turn have a serious impact on our finances when it comes time to determine how we would be punished for breaking the law. We could be an example if we take the opportunity to implement form-based zoning, or we could have an example made from us if we do not.

## CONCLUSION

The earliest mixed-use settlement pattern in the Town was in Brookline Village, the first area of Brookline farmland to be developed. It is in active use today. This heritage is a blueprint for more sustainable, equitable housing that Brookline has yet to achieve on Harvard Street. We have seen a small shift to mixed use development, on-site affordable housing, revitalized retail, electric heat

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<sup>4</sup> A recent Brookline By Design email stated that "other communities, such as Newton, have been given an additional year or longer to comply" with the MBTA Communities Act. Newton has the same deadline as Brookline. We are not aware of any unique relief to any Community that has been granted.

<sup>5</sup> DOER's draft regulations for allowing participation in this pilot program allow for compliance with 3A as an alternative if Brookline again falls temporarily under the state's 10% Subsidized Housing Inventory threshold.

pump systems, and, in some cases, Passive House energy standards in some of the 40B projects that have dotted the landscape in recent years, but we can do better.

Doing better is critical for our long-term economic health. Without growth and increased commercial opportunity, the only way to make up the gap between what Brookline wants to spend on services and what it actually has to spend is through a property tax hike via operating override. Overrides are not guaranteed. Yet the current zoning on Harvard Street is guaranteed to halt growth. Only 400,000 square feet of floor space are developed on Harvard Street's 2.1M square foot area of land. That represents only 15% of its hypothetical capacity under a four-story mixed-use scale. This is not to say that approving this preliminary step will result in unchecked growth on Harvard Street. It merely indicates that there is clearly room to grow in a smart and sustainable manner through the use of form-based zoning.

Today, small business owners and long-time property owners complain that it is too expensive to do business in Brookline. Why? Because if one-story retail is the only source of income for a property owner, there is no complementary source of income to cover tax increases. Most commercial leases are "triple-net" leases, which means that your favorite local shop owners are paying their landlords' taxes and expenses. These costs are discouraging desired tenants to lease in Brookline. Furthermore, it is a struggle for local property owners, deeply invested in Brookline, to lease to local entrepreneurs: They are competing with outside investors who lease to national chains—yet another bank—because they are credit-worthy to conservative underwriters. Moreover, retail brokers confirm that desirable retailers have rejected leases on Harvard Street in Coolidge Corner because the population is too low.

Respect for this cherished ecosystem has been the impetus for our department's forthcoming Harvard Street Study, now years in the making. It is staff's commitment to rigorous technical analysis and scoping of unintended consequences that has made the study as lengthy as it is. We hope that it may empower the community to use these recommended planning and regulatory tools today to shape its future.

#### **END OF MAIN DOCUMENT**

Appendices as stated



**Department of Planning and  
Community Development**

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333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2130

**Kara Brewton  
Director**

# *Town of Brookline*

## *Massachusetts*

TO: Select Board  
DATE: January 24, 2023  
RE: Harvard Street: Support for proposal as MBTA Communities District

### **JOINT STATEMENT FROM THE PLANNING BOARD AND THE PRESERVATION COMMISSION**

On January 11, 2023, the Planning Board and Preservation Commission held a joint meeting at which Senior Planner Maria Morelli presented findings of a study, to be distributed this month, that identifies possible ways to remedy barriers to multifamily and mixed-use development on Harvard Street in the short term. The Regulatory Division recommends using a form-based zoning approach to recalibrate the base zoning that would:

- reinforce the existing four-story scale and character of this vital commercial corridor, while providing a solid foundation for longer-term planning goals
- facilitate new mixed-income housing production without threatening demolition of older housing stock
- streamline permitting with a site plan and design review process administered by the Planning Board

The findings make clear that without right-sizing zoning, housing production under the current by-law is not feasible, which precludes applying the inclusionary zoning by-law, a fundamental means of integrating diversity by producing and funding much-needed affordable housing in Brookline.

Furthermore, the short-term horizon recommended for making these zoning changes coincides with the December 2023 deadline to comply with the MBTA Communities statute, which requires Brookline to classify a zoning district allowing as-of-right multifamily use and comprised of at least 41 contiguous acres, 90 percent of which must lie within a half-mile of a transit stop. Failure to comply with the statute would make the Brookline Housing Authority ineligible for a source of significant state funding.

The Regulatory Division focused its study on Harvard Street because it lends itself to a coherent streetscape and development pattern that can be more readily codified through a form-based zoning approach within a one-year timeframe, while both respecting the objectives of the longer-term Comprehensive Planning process and implementing actions recommended in the pending Housing Production Plan. In fact, this project is an opportunity to pilot a form-based zoning approach to integrate multiple policy goals rather than work at cross-purposes. We are encouraged by staff's analysis that Brookline Village, the first area of farmland in Town to be settled as a commerce center with residences in the late nineteenth century, is a blueprint 150 years later for walkable, sustainable neighborhoods providing more equitable housing.

## 8.A.

Moreover, by adopting a form-based zoning approach, the by-law can eliminate the most insurmountable barrier to housing production, the floor-area ratio metric. Codifying parameters for a building envelope, or form, offers more predictable outcomes than an unreliable performance metric such as FAR. Clearly articulated and accessible design standards, combined with an efficient site plan and design review process, would ensure that as-of-right projects can be permitted successfully without unintended consequences. Establishing specialized architectural standards for the Brookline Village National Register District, and some other significant buildings on Harvard Street, would encourage adaptive reuse and preserve embodied carbon.

The Planning Board and Preservation Commission emphasize any rezoning will involve an upcoming process and project plan, enabling policymakers and community stakeholders to consider all the study's recommendations and to solidify final details for zoning. As a first step in this endeavor, the Board and Commission support proposing Harvard Street as an MBTA Communities district, and providing resources to the Planning Department to implement a form-based zoning approach.



# *Town of Brookline*

## *Massachusetts*

**Department of Planning and  
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(617) 730-2130 Fax (617) 730-2442

**Kara Brewton  
Director**

To: Brookline Select Board

From: Roger Blood, Chair, Housing Advisory Board

Re: HAB Recommendation to Designate Harvard Street as an MBTA Community District

Date: January 4, 2023

On January 4, 2022, Senior Planner Maria Morelli presented to the Housing Advisory Board preliminary findings of a Harvard Street study identifying regulatory barriers to multifamily development. The study makes several recommendations to remedy these barriers in the short-term including using a form-based zoning approach for the base zoning that reinforces the existing four-story scale and character of this corridor to facilitate infill development that provides a solid foundation for longer-term planning. The findings make clear that without right-sizing zoning, multifamily production under the current by-law is not feasible.

The short-term horizon for making these zoning changes dovetails with the December 2023 deadline to comply with the MBTA Communities statute, which requires Brookline to classify a zoning district allowing as-of-right multifamily use comprising at least 41 contiguous acres, 90 percent of which are within a half-mile of a transit stop.

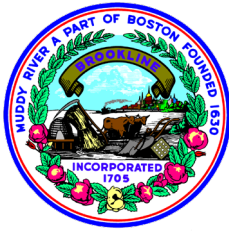
Non-compliance with MBTA Communities would make the Brookline Housing Authority ineligible for a source of significant state funding, jeopardizing the Town's most vulnerable residents.

Since the Town's last Housing Production Plan was certified in 2016, the only multifamily housing projects authorized on Harvard Street were under the Chapter 40B mechanism. These 40B projects added nearly 200 housing units in just five years—half of which are subsidized in perpetuity. In contrast, only one 12-unit project was constructed on Harvard Street through Chapter 40A nearly 20 years ago. Despite having reached its 10 percent subsidized housing threshold. Brookline still has a critical need for permanent affordable housing, as the pending HPP update reports in its 2022 Housing Needs Assessment. Many of the sites identified along the Harvard Street corridor were identified as potential development sites as part of the HPP.

The Planning Department's Regulatory Division estimates that half of the lots in the study area have opportunities for infill development, which offers potential for meaningful housing production without changing the character of this important commercial corridor. However, without functional multifamily zoning, there will be limited opportunity to apply the Town's Inclusionary Zoning by-law—impeding the creation of mixed-income housing and limiting contributions to the Housing Trust that have helped to fund 100% affordable senior housing projects.

## 8.A.

The Housing Advisory Board strongly supports designating Harvard Street as an MBTA Community District and providing the Planning Department with resources to apply a form-based zoning approach that will better integrate several policy goals for this corridor. The HAB is prepared to help develop and support needed incentives to facilitate mixed-income multi-family housing and mixed-use development on Harvard Street.



# BROOKLINE

## ECONOMIC DEVELOPMENT ADVISORY BOARD

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 Alden Raine  
 Sandi Silk  
 Zeina Talje

Date: *January 9, 2023*

To: *Select Board, Charles Carey, Meredith Mooney*

From: *Economic Development Advisory Board*

Re: *Harvard Street Multifamily/Mixed-Use Study and MBTA Communities Requirements*

On December 5, 2022, Senior Planner Maria Morelli presented to the Economic Development Advisory Board (EDAB) the preliminary findings of the Regulatory Division's Multifamily/Mixed Use Study focused on Harvard Street. A key expected recommendation of the study involves recalibrating the zoning for Harvard Street and consideration of, in particular, form-based zoning, more robust site plan review design regulations, additional parking requirement adjustments, and elimination of special permit requirements, in order to facilitate and support infill development up to four stories in this corridor.

The Multifamily/Mixed Use Study has been an ongoing project of the Regulatory Division for a few years and the remaining one-year timeline recommended for the Study on Harvard Street coincides with the timeline for compliance with the requirements of Massachusetts General Law, c.40A, Section 3A ("MBTA Communities"). Some key requirements of that section include that the Section 3A District allow housing by-right at a density of 15 units per acre, that the district be a minimum of 41 contiguous acres in size, that 90% of the district parcels are within half a mile of a transit station, and that the district cannot mandate commercial uses (though commercial and other non-residential uses may be allowed and incentivized). To comply with the requirements of the section, the Town would need to adopt such a district by December 2023.

Based on the preliminary findings and recommendations presented by Ms. Morelli on December 5, 2022, EDAB is supportive of the Town complying with the MBTA Communities requirements in a meaningful way and supports changes to zoning to encourage redevelopment along Harvard Street and the creation of new housing units to further the economic vitality of this commercial corridor. Given that the Harvard Street corridor presents many opportunities to advance the Town's economic development and housing needs without up-zoning, EDAB believes that Harvard Street is an appropriate focus for further evaluation, under the auspices of the Regulatory Division's Multifamily/Mixed Use Study, to determine whether zoning adjustments in this corridor could



## 8.A.

feasibly achieve MBTA Communities compliance. The success achieved by a number of Chapter 40B developments in delivering both sensitive design and housing units in this corridor, including some in mixed-use buildings, further bolsters its suitability for this purpose.

EDAB supports advancing solutions now that lead to compliance with the MBTA Communities' requirements. EDAB understands the MBTA Communities provision restricting municipalities from requiring ground-floor commercial space in Section 3A Districts, but also recognizes the importance of encouraging retention and creation of ground-floor commercial and other non-residential spaces. EDAB believes that current market trends suggest that ground-floor commercial uses will be concentrated in commercial nodes and not the entire Harvard Street corridor.

EDAB therefore believes that it is critical for any recalibrated Harvard Street zoning to include effective design standards that continue to support and incentivize active ground floor retail and commercial uses, such as façade transparency and entry design requirements. Development along this mixed-use corridor currently requires a special permit regardless of the use. The MBTA Communities Act will allow a developer to elect commercial ground floor uses as-of-right which will make such uses easier to permit. Longer term, zoning incentives long advocated by EDAB should be established through zoning overlays for larger commercial sites to incentivize commercial development above the ground level.

EDAB looks forward to working with Representative Tommy Vitolo and others to explore changes to the MBTA Communities Guidelines aimed at providing greater flexibility to municipalities to allow requiring ground-floor commercial uses in Section 3A Districts.

As presented by Ms. Morelli, the Regulatory Division has also identified the following potential risks if no action is taken to adjust Harvard Street corridor zoning:

- Housing production in the corridor may remain low, with a correspondingly low generation of inclusionary zoning benefits;
- Economic growth from unrealized infill redevelopment potential will not be realized;
- Pedestrian traffic may be insufficient to support existing and future commercial tenants;
- Existing one-story retail building stock may carry particularly high operational cost burdens for property owners and their tenants, and that cost may increase over time;
- In many cases, commercial tenants will continue to bear the full weight of future tax increases, especially in triple-net leases where tax and expenses are borne by the tenant.
- Zoning metrics are not right-sized and effectively preclude development to the four-story scale and the permitting process will remain expensive and unpredictable;
- Urban design standards, critical to reinforcing the current main street character of Harvard Street, remain loosely defined and regulated as mere guidelines; and
- Infill potential for much needed housing and commercial amenities which would be economically viable within the current four-story building envelope.

The Regulatory Division's preliminary findings suggest that a form-based zoning approach would better mitigate these risks, reinforce the current neighborhood character of this vital commercial

## 8.A.

district, provide more predictable building outcomes for developers and the community, and facilitate infill development consistent with this neighborhood character.

The Economic Development Advisory Board commends the progress made by the Regulatory Division on this Multifamily/Mixed Use Study, looks forward to contributing additional input as the study continues, and supports the Town's investment of funding to advance this promising and important Study, including further study of the potential opportunity for compliance with the MBTA Communities Act in connection with zoning measures for the Harvard Street corridor. EDAB is, in particular, supportive of requests for funding to contract with firms with extensive form-based zoning experience as a next step in evaluating the Harvard Street zoning adjustments under consideration in the Study.

*Note: On January 9, 2023, the Economic Development Advisory Board voted 7-0-3 in support of this advisory memo.*



# TOWN of BROOKLINE

## *Massachusetts*

**CHARLES CAREY**  
TOWN ADMINISTRATOR

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**To:** Select Board

**From:** Charles Carey, Town Administrator

**Date:** January 30, 2023

**Subject:** American Rescue Plan Act, Round 2  
Draft List of Town Requests and Priorities

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It is my pleasure to present you with the attached draft list of requests and identified priorities for American Rescue Plan Act (“ARPA”) funding from the departments of the Town of Brookline. I look forward to discussing them with you in greater detail to hear your thoughts and suggestions before I finalize the list for transmission to the ARPA Committee.

As you know, ARPA has been a crucial lifeline to communities large and small during the COVID-19 pandemic. Brookline has taken a community-oriented approach in determining how its ARPA funds are distributed. The ARPA Committee, which evaluates funding requests, has stated publicly that it wishes to reserve half of its remaining ARPA funding for projects that originate from the community directly. In keeping with that wish, I have identified just under \$5,000,000.00 of Town ARPA requests to prioritize, representing 46% of a total ask of \$10,796,640.00.

Of the Town’s prioritized requests, just under \$4,000,000.00 of them fall under the umbrella of “green” asks. Replacing parts of our aging gas vehicle fleet whose funding was decimated by COVID is an ideal way to increase public sector capacity while greening the community. Electrifying two major Town buildings as part of an overall COVID-related resiliency makeover will ensure they are ready to serve in future pandemics while eliminating reliance on fossil fuels. And significantly increased planning capacity will help individuals, organizations, and the Town itself reach its net-zero 2040 goal. \$150,000.00 of that money is earmarked for solar-powered trash compactors in accordance with the Rodent Control Action Plan’s long-term aims.

The remaining \$1,000,000.00 in prioritized requests carry a focus on vulnerable communities and social equity. Popular programs such as the Farmers Market Coupon Program will be extended, while new programs like the Community Gatekeepers (which will connect individuals in disadvantaged communities to services they need through trusted community intermediaries) and social isolation outreach efforts to BHA residents by the Council on Aging will come online.

I note that \$277,000 is set aside in the “non-green” \$1,000,000 priority list for a form-based zoning consulting contract. If the Board approves an emergency appropriation of this amount from ARPA funds on January 31, I will reduce our total ARPA priorities ask to the committee by the same amount rather than replacing it—in other words, it will be as if the Committee approved it as part of our overall \$5M ask.

This list is still in draft form but is in its final stages. ARPA is a crucial tool for our Town in reducing the amount of one-time or long-term asks we may make to the community as part of any operating override. I hope to have your enthusiastic support when I present the final detailed version of this proposal to the ARPA Committee in February. Thank you for your attention.

**END OF MAIN DOCUMENT**

Attachment as stated

## Green Asks

DRAFT 1/30/2023

Department	Item	Cost	Notes
<b>BLD</b>	Senior Center COVID-resilient renovation	\$ 830,000	
<b>BLD</b>	Public Health Building COVID-resilient renovation	\$ 680,000	
<b>BLD</b>	Elec. vehicle + charger	\$ 80,000	SUV or similar
<b>BLD</b>	Digitization	\$ 30,000	
<b>BPD</b>	Elec. vehicle + charger	\$ 125,000	Police-grade Mustang SUV or similar
<b>CLK</b>	Digitization	\$ 25,000	
<b>COA</b>	Elec. vehicle + charger	\$ 80,000	12-person electric van
<b>DPCD</b>	2-year energy coach plan for residents/businesses	\$ 195,000	Consultant contract; not permanent positions
<b>DPCD</b>	Cool roofs education program	\$ 25,000	
<b>DPCD</b>	Specialized Energy Code training	\$ 20,000	Public & private
<b>DPCD</b>	Expanding charging master plan study to Town-wide	\$ 175,000	
<b>DPH</b>	Elec. vehicle + charger	\$ 60,000	Sedan
<b>DPW</b>	Trash receptacle replacement	\$ 150,000	Rodent Control Action Plan
<b>DPW</b>	Fleet replacement	\$ 785,000	Electric packer + 5 electric vehicles + EUV sidewalk vehicle
<b>DPW</b>	Electric small engine equipment	\$ 70,000	
<b>FIN</b>	Elec. vehicle + charger	\$ 87,500	Bolt station (for purchasing)
<b>LIB</b>	Elec. Mob. library + charger	\$ 75,000	w/contribution ass't from foundations
<b>IT</b>	Server energy efficiency upgrade	\$ 360,000	
<b>ODICR</b>	“Welcome to Brookline” Program	\$ 22,000	Multilingual doc re: green energy & other resources
<b>REC</b>	Elec. vehicle + charger	\$ 60,000	Sedan
<b>Total:</b>		<b>\$ 3,934,500</b>	

## Non-Green Asks

Department	Item	Cost	Notes
<b>BPD</b>	Community Room A/V System	\$ 6,500	
<b>COA</b>	BHA Social Isolation Outreach	\$ 50,040	
<b>COA</b>	Transportation Special Projects Budget	\$ 50,000	
<b>DPCD</b>	ADA Accessible Parklet Spaces in Public Way	\$ 50,000	
<b>DPCD</b>	Form-Based Zoning Consulting for MBTA Communities Act	\$ 277,000	in potential lieu of reserve fund transfer request
<b>DPH</b>	Farmers Market Coupon Program	\$ 100,000	Continuation of prior program
<b>DPH</b>	Community Gatekeepers	\$ 30,000	Community engagement program
<b>DPW</b>	Snow removal vehicle replacement	\$ 325,000	

# 10.A.

<b>IT</b>	Town Hall wifi	\$	60,000	
<b>REC</b>	Year 1 LMI Scholarship Pilot	\$	85,000	Closes out Year 1 (Rd 1: \$500,000)
<b>ODICR</b>	Municipal Membership to African-American History Museum	\$	10,000	Pilot program
<b>Total:</b>		\$	<b>1,043,540</b>	
<b>Not Currently Recommended</b>				

Department	Item	Cost	Notes
<b>BLD</b>	Town Hall electric/air conversion	\$ 2,100,000	CIP/Override
<b>BPD</b>	Electric Vehicle+Charging Station	\$ 125,000	Infrastructure not present for more than 1 vehicle (wait for conclusion of townwide charging study)
<b>COA</b>	Electric Vehicle+Charging Station	\$ 60,000	Infrastructure not present
<b>COA</b>	Transportation Budget Increase	\$ 120,000	Override
<b>DPCD</b>	Comprehensive Plan Year 1	\$ 150,000	Override
<b>DPCD</b>	Preservation plan update	\$ 20,000	Override
<b>DPCD</b>	Facade loan program expansion	\$ 100,000	
<b>DPW</b>	Snow removal vehicle replacement	\$ 825,000	Override + Round 3
<b>DPW</b>	Electric ride-behind mowers	\$ 120,000	combine w/rec golf carts for rd 3?
<b>DPW</b>	Skid Steers	\$ 170,000	
<b>DPH/COA</b>	Hoarding Evaluation & Supportive Services	\$ 168,600	Override + Round 3
<b>IT</b>	Dark Fiber	\$ 60,000	CIP
<b>REC</b>	Green golf carts	\$ 500,000	Round 3
<b>REC</b>	LMI Scholarships	\$ 1,000,000	Year 2+: Override funded
<b>REC/COA/ODICR</b>	Electric bus	\$ 300,000	Infrastructure not present
<b>Total:</b>		\$ <b>5,818,600</b>	

Total Ask	\$	<b>10,796,640</b>
Total Approved	\$	<b>4,978,040</b>
Not Recommended	\$	<b>5,818,600</b>



# TOWN of BROOKLINE

## *Massachusetts*

**CHARLES CAREY**  
TOWN ADMINISTRATOR

333 WASHINGTON STREET  
BROOKLINE, MASSACHUSETTS 02445  
TEL. (617) 730-2200  
FAX: (617) 730-2054  
[www.brooklinema.gov](http://www.brooklinema.gov)

**To:** Select Board

**From:** Charles Carey, Town Administrator

**Date:** January 27, 2023

**Subject:** Puddingstone Project Extended Hours of Operation  
Conditional Noise Waiver Mitigation Plan

---

This memorandum summarizes the history of the current request for a noise bylaw waiver by Chestnut Hill Realty (“CHR”), describes my findings over the course of my visits to the site for which the waiver has been requested, and makes recommendations to the Select Board regarding a mitigation plan should the Board be inclined to grant CHR’s request.

### PROCEDURAL HISTORY

On December 20, 2022, representatives of Chestnut Hill Realty (“CHR”) came before the Select Board seeking a waiver of the Town’s noise bylaws to conduct extended concrete pours at the Puddingstone Project site within the Hancock Village development in South Brookline. CHR envisioned 7 discrete pouring days in which activities would have extended in some cases as late as 4 a.m. on the subsequent day.

In response to concerns raised by the community and the Select Board, the Town, through its project representative, convened a virtual meeting on January 5, 2023 for community members and CHR to discuss the proposal and additional potential mitigation measures. CHR returned before the Select Board on January 10 for further review of its request and proposed mitigation measures. In response to community concern, CHR moved the ending times of some pours back, increased proposed compensation to residents it identified as impacted, and expressed willingness to add additional safety measures along the proposed routes of its concrete trucks.

Ultimately, because of the Town’s concern that CHR required a modification of its special permit from the Zoning Board of Appeals (“ZBA”) in addition to Select Board approval, the decision on whether to grant the waiver was further postponed. Toward the close of the conversation on the subject, I volunteered to visit the site to record my impressions and make recommendations to the Select Board on what additional mitigation measures, if any, should be considered if the Select Board is inclined to grant CHR’s request. CHR presented its request to ZBA on January 12, 2023; that request contained a mitigation plan that further reduced the evening/early morning hours of the pours.

I have now made several visits to the area around the Puddingstone Project in Hancock Village. On one such visit, hosted by CHR, I was accompanied by Select Board member Mike Sandman. On another, I was met by residents who graciously volunteered their time and invited me into their homes to show me their concerns. I thank Town Meeting Members Carolyn Thall and Danielle da Silva, CHR staff, and all those residents whose anonymity I want to respect for their assistance and willingness to engage on this topic.

## FINDINGS

The Puddingstone Project, located at 201 Sherman Road, is a so-called “40B” development that will contain affordable and market-rate units. As 40B projects are exempt from almost all local zoning restrictions, the Town’s ability to dictate terms to developers who build them is limited. In evaluating the current situation, I acknowledge that the history of the community’s collaboration and disputes with CHR over its developments in Hancock Village is lengthy and at times intense. But that history must take a back seat to the present problem: how to mitigate the harm to residents surrounding Puddingstone if a noise bylaw waiver is granted.

The Puddingstone Project’s asymmetric and multi-sided floor plan, together with its use of certain construction methods to reduce the necessary thickness of floors (thereby allowing an additional story to be placed on the building while complying with height restrictions), does appear, from my layperson’s understanding, to necessitate sustained concrete pours for the building to be completed as designed.

On the visit they hosted, CHR representatives were candid that they could have identified this necessity earlier in the process. CHR’s willingness to reduce late hours, twice, while welcome, also suggests an initial unwillingness to consider (or unawareness of) the proper balance of the community’s needs with the project’s. CHR has said that this shift in working schedule required the use of different methods and significant additional expense to plan the logistics. Given the above-referenced history, CHR should have known that the community would present a strong and sustained objection to their original proposal. If any such requests are to come before the Select Board in the future, CHR should conduct this level of mitigation analysis and community outreach in the first instance, before seeking the Board’s assistance.

The area around the Puddingstone Project in Hancock Village is in a state of significant flux. On all of my visits, crews upgrading the utilities were operating heavy equipment on Sherman Road. Crews were also re-siding the entirety of the multi-family structure at 120 Gerry Road. On Hancock Village Drive, the main entryway into the Puddingstone site, a large staging area for the construction occupies the entirety of the space after the new recycling center. In particular, what appears on the site map as a parking lot behind 120 Gerry Road is in fact an active part of the job site, albeit less active than the area in and around the Puddingstone footprint itself. It is unsurprising that residents are concerned about the need for more work: their neighborhood is already under heavy construction that impacts their day-to-day lives significantly.

On my visits, I identified several additional units that will be impacted by the proposed extended work hours that CHR seeks. I also heard from residents with concerns regarding the space behind



120 Gerry Road and the general condition of Hancock Village Drive. These issues are all reflected in the proposed revisions to CHR's mitigation plan listed below.

Finally, while I and the community both applaud CHR's decision to assist supportive services groups by housing refugees in previously vacant Hancock Village units, I note that those individuals would not benefit from a rent abatement. I recommend that the mitigation plan be clarified to reflect that the residents impacted by the activity will receive direct monetary compensation.

### **PROPOSED MITIGATION MEASURES**

If the Board is inclined to grant CHR's waiver request at this time, I recommend it add the following additional mitigation conditions to the Draft Mitigation Plan included in its packet:

Under Section 2, Logistics and Site Activities, add:

- j. No vehicles with backup alarms shall use the staging area/parking lot at the rear of 120 Gerry Road to back their vehicles up or turn them around on extended pour days.
- k. CHR shall remove all temporary speed bumps on Hancock Village Drive no later than 12 hours in advance of an extended hour day to avoid the noise from trucks driving over them impacting residents.

Under Section 3, Resident Compensation, modify and add:

- a. CHR shall provide direct monetary compensation no later than 30 days after any extended workday to all Hancock Village residents occupying units as shown on the modified site plan attached as Appendix "A" to the Town Administrator's memorandum of January 27, 2023 on a per-unit basis.
- b. CHR shall further provide residents whose units will receive monetary payments under this mitigation plan with complementary access to the amenities center at 1 Hancock Village Place from the date of its opening through Labor Day, 2023.
- c. CHR shall not in any way retaliate against, punish, or otherwise single out for adverse treatment any Hancock Village residents or group thereof who advocated against granting the conditional noise bylaw waiver on account of their advocacy.

*(proposed vote language follows on the next page.)*

**PROPOSED VOTE LANGUAGE****VOTED:**

To grant a conditional waiver of the requirements of Article 8.15 of the Town of Brookline's bylaws to Chestnut Hill Realty for the pouring and setting of concrete at the project located at 201 Sherman Road on no more than seven discrete instances during the hours described in the developer's submission contained in the Select Board's agenda packet under Item 11, subject to approval by the Zoning Board of Appeals of the same, as well as the mitigation plan contained in that submission, as modified by the revised and additional conditions contained in the Town Administrator's memorandum of January 27, 2023, which is also included in the packet under Item 11.

**END OF MAIN DOCUMENT**

Appendix A: Revised Resident Compensation Map



MA.  
Puddingstone Extended Workday Abatement and Compensation Plan  
TOWN REVISED PROPOSAL



Stantec Planning and  
Landscape Architecture P.C.  
226 Causeway St.  
Boston MA 02114 U.S.A.  
Tel. 617.523.8103  
Fax. 617.523.4333  
www.stantec.com

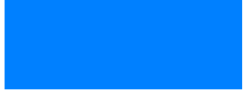
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\$500/extended workday



\$250/extended workday



Δ Bulletin 24	SB	TK	2021.06.22
Δ Bulletin 22	SB	TK	2021.04.09
Δ Bulletin 15	SB	TK	2020.10.14
Δ Bulletin 12	SB	TK	2020.08.24
Δ Bulletin 10	SB	TK	2020.08.07
Δ Bulletin 6	SB	TK	2020.06.12
Δ Bulletin 3	SB	TK	2020.03.27
TOWN COMMENTS	SB	TK	2020.02.21
Δ Bulletin 1	SB	TK	2020.01.24
CONFID SET	SB	TK	2020.01.24
Issued	By	Appd.	MM.DD.YY

File Name: 10271\_overall master plan.dwg  
Dwn. Chkd. Dsgn. MM.DD.YY

Permit-Seal

Client/Project

RESIDENCES OF SOUTH BROOKLINE

Brookline, MA

Title

OVERALL SITE PLAN

Project No.

210801671

Scale

As Noted

Drawing No.

L-100

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March 20, 2017 By: Brenda Stephane

ORIGINAL SHEET - ARCH D



**EXHIBIT A****DETAILS OF PROPOSED WORK**

<b>Approximate Dates *</b>	<b>Hours of Operation</b>
2/2/2023	6:00 am - 10:00 pm
3/9/2023	6:00 am - 10:00 pm
3/23/2023	6:00 am - 12:00 am
5/2/2023	6:00 am - 12:00 am
5/5/2023	6:00 am - 12:00 am
6/5/2023	6:00 am - 12:00 am
6/23/2023	6:00 am - 12:00 am

\* The specific dates of the pours are based on the current anticipated schedule, but may vary by as much as 7 days depending on the progress of construction. However, the pours will never be on a weekend day, and the Applicant will give 72 hours' prior notice to the affected parties, as specified in the Mitigation Plan.



**Chestnut Hill Realty**

**DRAFT MITIGATION PLAN  
PUDDINGSTONE PROJECT EXTENDED HOURS OF OPERATION  
January 12, 2023**

**Mitigation Plan:**

**1. Communication:**

- a. The Construction Liaison intends to hold a virtual meeting in advance of the first extended workday to review the work plan and answer questions from residents. CHR will be available to attend the meeting and will provide the Construction Liaison with all information requested in advance of the meeting.
- b. CHR will provide written notice 72 hours in advance to all Brookline residents on the west side of Hancock Village, Beverly Road abutters with a shared property line, Building Commissioner and Construction Liaison of each extended hours workday.
- c. CHR and our General Contractor will have a 24-hour contact person available to residents and the Town respectively on all extended workdays.
- d. CHR will notify all parties referenced in item 1b above within 24 hours of any schedule change.
- e. CHR will submit a written summary following each extended workday to the Building Commissioner and Construction Liaison within 24 hours following an extended workday. The summary will identify any issues or complaints related to the afterhours work and CHR's plan to mitigate the issue going forward.

**2. Logistics and Site Activities:**

- a. Required site lighting shall be installed in a manner to reduce glare from the active construction site.
- b. Concrete pumps shall be surrounded by sound dampening mats to reduce noise disruption.
- c. A logistics plan illustrating on site concrete truck traffic flow will be provided to the town and Construction Liaison. The flow will be in a manner that eliminates or significantly reduces the need to back up any concrete trucks. (Note: back up alarms can't be silenced due to 29 CFR OSHA construction requirements).
- d. Police details will be provided at the following intersections: Sherman Rd/Independence Drive, Gerry Rd/Independence Dr, Lagrange St./Beverly Rd and Independence Dr/Beverly Rd.
- e. CHR will provide crossing guards at the following locations: Gerry Rd/Baker Tennis Court entrance

617-323-2100  
Management Offices  
Fax 617-323-8888

Box 67396, Chestnut Hill, MA 02467-0004  
chestnuthillrealty.com

617-323-8700  
Maintenance Services  
Fax 617-323-8889

# 11.A.

- f. CHR will provide police details at the following locations: Beverly Rd./Independence Dr., Gerry Rd./Independence Dr., Hancock Village Dr./Independence Dr. and Lagrange St./Beverly Rd.
- g. Concrete trucks shall only access the site via the extended work hours truck route included with this plan.
- h. CHR will instruct its contractors to minimize the cleaning of concrete equipment utilizing sledgehammers or mallets during the noise waiver times.
- i. CHR will provide clear direction to onsite personnel regarding designated parking locations surrounding the site. Under no circumstances shall contractors park in the neighborhood.

### 3. Resident Compensation:

- a. CHR will provide compensation on extended workdays for all Hancock Village residents occupying units as shown on the attached site plan titled Puddingstone Extended Workday Compensation Plan

### 4. Penalties

- a. In the event of a violation of the approved extended work hours, CHR shall make a \$5,000 payment to the Town of Brookline.
- b. CHR shall also have a meeting with the Building Commissioner and Town Construction Liaison to review the specifics of the violation and to discuss how it will be avoided on subsequent extended workdays.

+++++

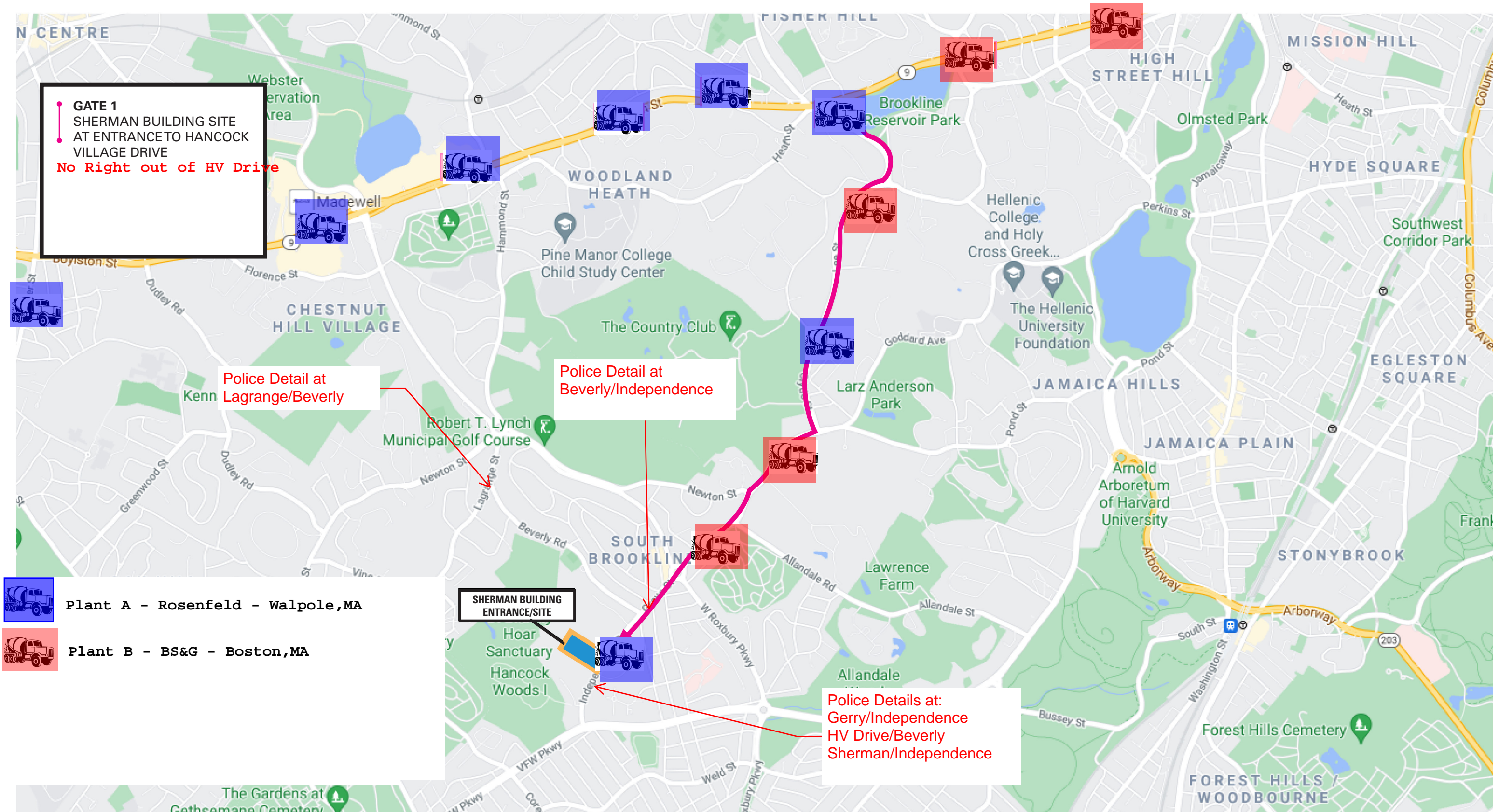


# PUDDINGSTONE AT CHESTNUT HILL

TRUCK ROUTE -EXTENDED WORKDAYS

January 12, 2023

ERLAND.



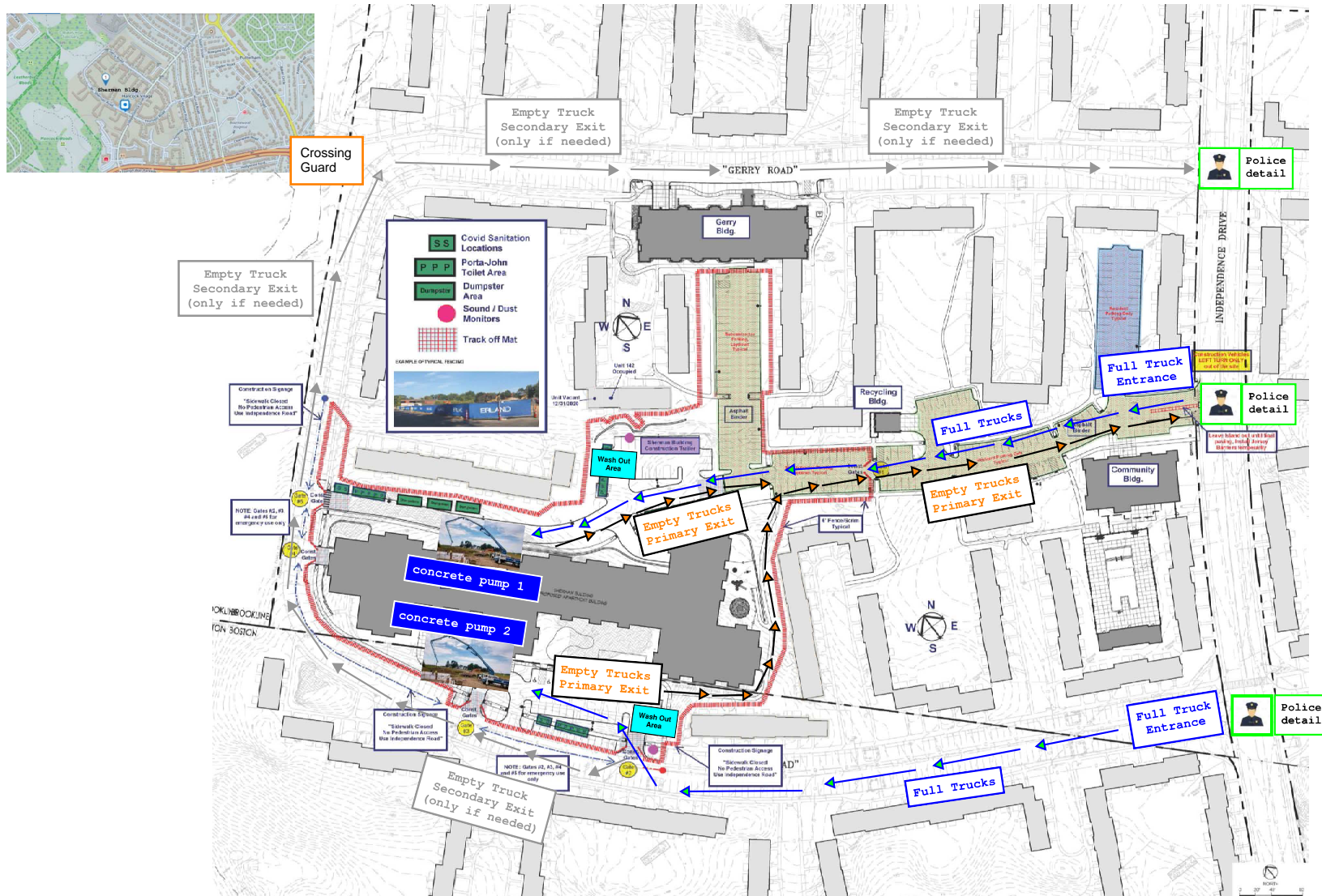


# Puddingstone

LOGISTICS PLAN -Extended Work Days

January 12, 2023

ERLAND.





11.A.

Puddingstone Extended Workday Compensation Plan  
DRAFT -January 26, 2023



Stantec Planning and  
Landscape Architecture P.C.  
226 Causeway St.  
Boston MA 02114 U.S.A.  
Tel. 617.523.8103  
Fax. 617.523.4333  
www.stantec.com

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Units will receive \$500 per extended workday



Units will receive \$250 per extended workday



Δ Bulletin 24	SB	TK	2021.06.22
Δ Bulletin 22	SB	TK	2021.04.09
Δ Bulletin 15	SB	TK	2020.10.14
Δ Bulletin 12	SB	TK	2020.08.24
Δ Bulletin 10	SB	TK	2020.08.07
Δ Bulletin 6	SB	TK	2020.06.12
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File Name:	10271_overall master plan.dwg	Dwn.	Chkd.	Dsgn.	MM.DD.YY
Permit-Seal					

Client/Project

RESIDENCES OF SOUTH BROOKLINE

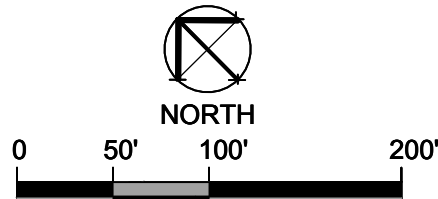
Brookline, MA

Title

OVERALL SITE PLAN

Project No.	Scale
210801671	As Noted
Drawing No.	

L-100



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March 20, 2017 By: Brenda Stepien

ORIGINAL SHEET - ARCH D



# Impact of Delay Per Placement on Concrete Schedule

## Design Delay Per Placement – 16 weeks (4 Months)

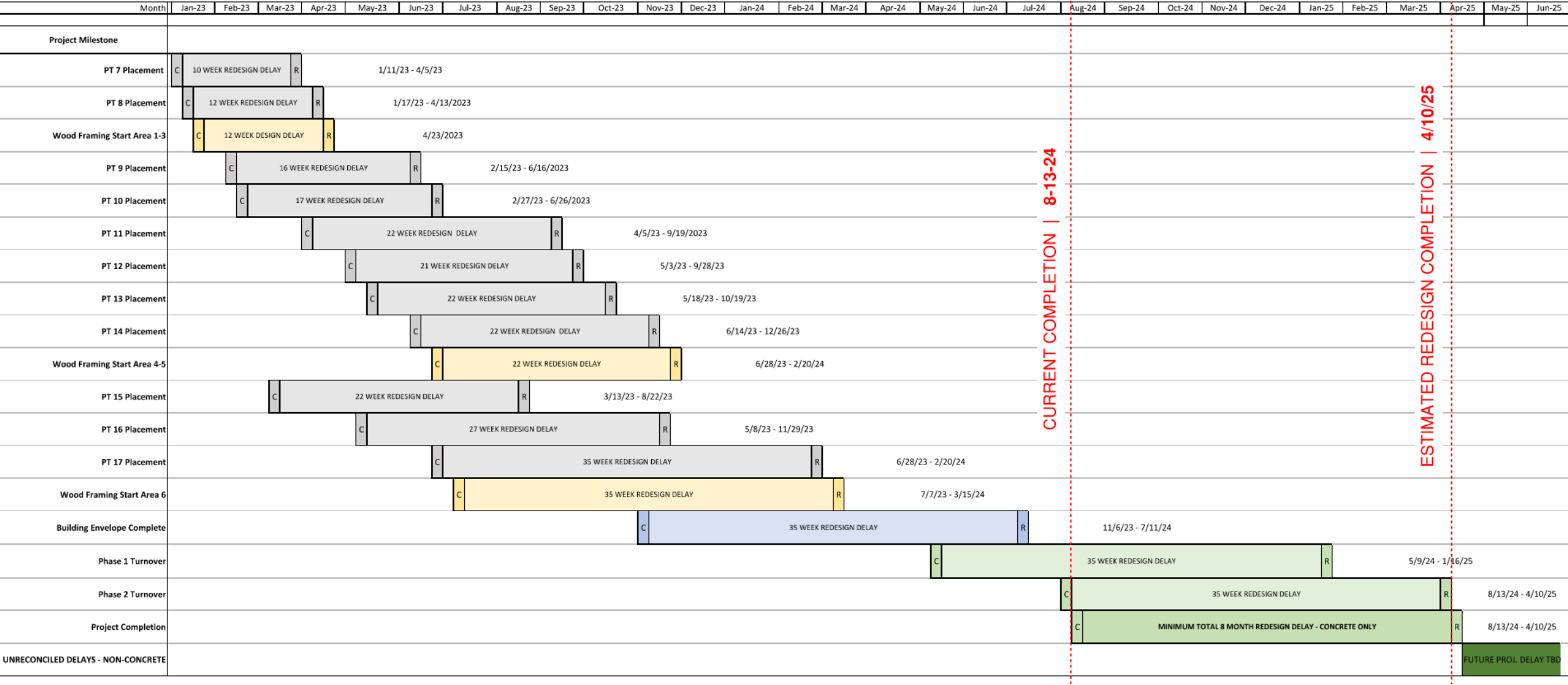
- Control Joint Identification
- Control Joint Approval & Reinforcement Design
- Post Tension Tendon Shop Drawing Revision
- Post Tension Tendon Shop Drawing Approval
- Re-Coordination of MEP Penetrations

## Concrete Delay – 15 weeks (4 Months) Minimum

- Material Procurement
- Added Formwork at New Control Joint
- Added Rebar at New Control Joint
- Reworking of Tendons at New Control Joint
- Added PT Placement (Min. 7 Additional)
- Added PT Curing Time
- Added PT Stressing

11.A.

# Impact of Delay on Overall Project Schedule



# 11.A.

## PUDDINGSTONE

### SUMMARY OF HOURLY ACTIVITIES

### EXTENDED WORKDAYS

1/12/2023

		PT CONCRETE PLACEMENT TIMELINE (EXTENDED HOURS TO 12AM)																									NOTES
DAYLIGHT HOURS	TIME	6AM	7AM	8AM	9AM	10AM	11AM	12PM	1PM	2PM	3PM	4PM	5PM	6PM	7PM	8PM	9PM	10PM	11PM	12AM	1AM	2AM	3AM	4AM	5AM		
	PUMP 1	SET UP															*break down										*pumps will be broken down and removed from site as soon as possible
	PUMP 2	SET UP															*break down										
	CONCRETE TRUCK DELIVERY																										
	CONCRETE FINISHING																										
	PROTECTION/MONITORING																										onsite workers may be required for larger placements to monitor, maintain and secure work in place
	OSHA REQUIRED LIGHTING																										Lights will be on for worker safety per OSHA requirements in work areas only. ON/OFF Duration will be adjusted to available daylight hours.

		PT CONCRETE PLACEMENT TIMELINE (EXTENDED HOURS TO 10PM)																								NOTES	
DAYLIGHT HOURS	TIME	6AM	7AM	8AM	9AM	10AM	11AM	12PM	1PM	2PM	3PM	4PM	5PM	6PM	7PM	8PM	9PM	10PM	11PM	12AM	1AM	2AM	3AM	4AM	5AM		
	PUMP 1	SET UP														*break down											*pumps will be broken down and removed from site as soon as possible
	PUMP 2	SET UP														*break down											
	CONCRETE TRUCK DELIVERY																										
	CONCRETE FINISHING																										
	PROTECTION/MONITORING																										onsite workers may be required for larger placements to monitor, maintain and secure work in place
	OSHA REQUIRED LIGHTING																										Lights will be on for worker safety per OSHA requirements in work areas only. ON/OFF Duration will be adjusted to available daylight hours.